tic energy supplies; and fourth, the establishment of Federal and State programs to equitably distribute the inevitable energy shortages that will be experienced for the forseeable future.

The United States is faced with a deepening energy crisis. Future energy shortages threaten Government and industry programs to expand energy supplies which are being delayed and even canceled in the face of inflation and high interest rates as well as a general deterioration in our economy. Extraordinary steps will be needed if we are to assure that the likelihoods of millions of citizens will not be unreasonably disrupted by the resultant shortages.

The recent Project Independence report analyzes the perils of the United States present heavy reliance on oil imports. The report also outlines the tough choices that must be resolved by the American people. In the months ahead the Congress will review these choices.

Already it is clear our actions must go beyond the voluntary energy conservation measures that are being advocated by the administration. Tougher measures are going to be required. As consumers all of us must be prepared to accept sacrifices if the problem is to be solved. Present imports of oil at inflated prices are beginning to sap our economic strength and drain our monetary reserves.

Certainly the executive branch must have the tools to cope with another energy emergency as well as to stimulate new domestic energy supplies. These authorities were contained in S. 3267, the Standby Energy Emergency Authorities Act, which was debated in this body on May 8 and 13, 1974. That measure was carefully developed over several months to reflect experience gained during last winter's OPEC oil embargo.

For a variety of reasons, Mr. President, including opposition by the then Nixon administration, Senate action on this measure was discontinued last spring. The bill, S. 3267, was complex in nature and its ramifications were widespread. At the time the legislation was responsive to the current energy problems.

Today, Mr. President, I join Senator HENRY M. JACKSON on an amendment in the nature of a substitute for S. 3267. Amendment No. 2006, the Standby Energy Authorities Act. This measure grants the Administrator of the Federal Energy Administration with discretionary authority to implement mandatory energy conservation programs in order to restrain the U.S. consumption of energy—principally oil consumption from foreign sources.

The amendment also provides contingency planning authority for end-use rationing. This provision is to be employed only when the President determines that an energy shortage exists. The Congress also retains the right to veto within 15 days any proposals by the administration to exercise either the energy conservation or the end-use rationing authorities.

As envisioned, mandatory energy conservation measures would be employed as the first step toward greater energy self-sufficiency. End-use rationing would be instituted only as a last resort, but even then on an equitable basis.

Mr. President, the States have moved ahead and will continue to exercise a major role in our coping with our country's energy problem. In fact, the States can take major credit for keeping the petroleum allocation program afloat during last winter's severe shortages, often filling the vacuum, while the Federal regional program was being organized, and backstopping delayed Federal decisionmaking.

In recognition of the vital functions to be served by State programs, the Congress in establishing the Federal Energy Administration directed in section 20 that special attention be given to the role of State government.

Further recognition of the need for strong State leadership is provided in this amendment to S. 3267, the Standby Energy Authorities Act, which is pending on the Senate's calendar. Provision is made for State energy program and implementation grants and with respect to energy conservation, for State and local exemption from Federal programs, where strong programs exist.

The States must assume major responsibility for striking a balance between the goals of environmental protection and resource development. In reality we are involved in two crises, one involving energy and the other current environmental policies.

The success of a national energy policy will be due largely to the ability of State government to develop regional energy policies. Their ability to take the energy crisis in hand, and match suppliers and users is essential.

It is not enough to speak of national energy self-sufficiency. To the extent practicable, we also must concern ourselves with regional independence.

These provisions do not address the longer term energy supply problems facing our country; these programs are concerned only for equitable distribution of energy shortages.

In recognition of the need to increase domestic energy supplies the amendment contains two major provisions: first, section 106 of the bill authorizes the Federal Energy Administrator to undertake various actions to increase domestic petroleum supplies; and, second, the measure authorizes the FEA Administrator to preferentially allocate limited supplies of materials and equipment to energy production.

This authority—section 106—is intended to provide increased domestic supplies of petroleum over the short-term while long term alternatives are being pursued. Four principal actions are available to the FEA Administrator: First, to require existing oil fields in the private domain to operate at their maximum efficient rates of production; second, to require production in excess of maximum efficient rates from oil fields on lands in which there is a Federal interest; thrid, to require the consolidation of unitization of individual companies' production from the same oil and gas fields, when on Federal lands, where necessary to meet national security and defense needs; and fourth, to adjust the product mix in domestic refinery operations, in accordance with national needs and priorities.

Looking to the longer term it is necessary that the pending amendment also assure that the exploration for and production of new domestic petroleum supplies is not constrained from a lack of availability of equipment and materials. Thus the Federal Energy Administrator is authorized in section 105 to assure the availability of such supplies for this purpose during periods of equipment or materials shortages. This provision will provide industry with access to the mining equipment and supplies necessary to expand coal production as well as the tubular goods and drilling rigs required for the exploration and development of new domestic oil and gas supplies.

Mr. President, this amendment contains authority in title II for the President to formulate a plan and establish the mechanisms to control and reduce oil imports. This program is supplemented by provisions in title III for the examination and creation of a national strategic reserve system for electric utilities, for industry, and for our country as a whole.

I am aware, Mr. President, that there is some confusion and uncertanty about the extent and possible duration of the energy crisis. However, there is little doubt that an energy crisis does exist and will persist. The fact that these shortages will continue requires that we enact legislation to enable equitable distribution of the available supplies to accommodate regional as well as national needs.

This amendment provides the necessary back-up authorities to cope with anticipated shortages and is so titled the Standby Energy Authorities Act. It provides the mechanisms to accommodate our economy and our way of life to energy shortages in an equitable manner, with minimum disruption to our economy. The provisions are based on experience gained last winter during the embargo.

Senator BARTLETT has directed very plausible arguments to delay the action on this measure: the measure Senator JACKSON and others of the Senate, including myself, have cosponsored. However, further delay would be to ignore the need for the United States to move now and then develop the means to cope with our long-term energy crisis.

I think that the gentleman from Oklahoma can agree with me on this, that there is a necessity for an interim authority to cope with immediately, short-term energy supply interruptions. There is general language in this bill which would provide necessary standby authority.

Now, Mr. President, I am satisfied that this measure achieves that purpose in a very practical way and I would hope for its early enactment.

I supported similar legislation a year ago, and I understand that Members can disagree.

In conclusion, Mr. President, it is my understanding, and I am only partially informed that the President of the United States, tonight, is expected to ad-

dress himself to our country's energy problems.

I am not sure that that is to take place, but as I close I want the debate to reflect that the President must realize that decisions on this matter must not be delayed or postponed.

We must come to grips with it in one form or another; hopefully with the cooperation of the administration and the support of the American people.

Mr. BARTLETT. Mr. President, I say to the distinguished Senator from West Virginia that I am very sorry our colleagues did not hear his remarks, particularly when he was reciting some of the leaders of this Nation and the tremendous challenges which they met, they met with action in a very forthright manner.

I am reminded of another problem which faces this country and the world and that is the matter of food shortages. I am so pleased, I would say to my distinguished friend from West Virginia, that this Nation is now gearing up to make every effort to maximize its efforts to provide food, as well as to encourage other nations to do likewise, to provide food for themselves as well as to exchange information so that the existing amounts of food that exist around the world can be better utilized than they have been in the past for emergency use.

But in looking at that problem, which of course the distinguished Senator from West Virginia knows very well requires energy to maximize, I am concerned about approaching this problem and fighting it with only one arm, and that is just cutting back.

I am concerned about this approach with the International cooperation agreement that we have with our friends in Europe, that if we only exchange shortages and have the ability to work on the demand side of the equation, we are not going to be able to face up to the problem directly.

This Congress must tell the people of this country that we are going to provide the sufficient amounts of energy to meet the needs. we are going to cut back on expensive imports, but that we are not going to approach it with one arm behind the back and we are not going to play just into the hands of the Arab countries and other nations and make ourselves more vulnerable to them than we already have.

We are going to bite the bullet. We are going to make every effort to be as strong a nation as we have been in the past, and to provide sufficient energy for this country to employ its people, to guarantee its safety, and to have a high standard of living.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 14449

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the bill, H.R. 14449—an act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs—of 1 hour to be equally divided between the assistant majority leader and the distinguished Republican leader or their designees; that there be a time limitation on any amendment thereto of 30 minutes; that there be a time limitation on any debatable motion or appeal in relation thereto of 10 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, during the consideration of H.R. 14449 (Order No. 1225), an act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion or appeal shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided, further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from West Virginia (Mr. Robert C. Byrd) and the Senator from Michigan (Mr. Griffin) or their designees: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

Ordered further, That the vote on final passage of the bill shall occur at 10:30 a.m., Friday, December 13, 1974.

TIME LIMITATION AGREEMENT—S. 1988

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on S. 1988—a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes—of 1 hour, the time to be equally divided between Mr. MAGNUSON and Mr. STEVENS; that there be a time limitation on any amendment of 1 hour; a time limitation on any amendment to an amendment of 30 minutes; a time limitation on any debatable motion or appeal of 10 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, on Wednesday, December 11, 1974, during the consideration of S. 1988 (Order No. 1233), a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the author of the amendment in the first degree, and that debate on any debatable motion or appeal shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled by the Senator from Washington (Mr. Magnuson) and the Senator from Alaska (Mr. Stevens): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

Ordered further, That no rollcall votes on this bill occur before 3:30 p.m., Wednesday, December 11, 1974.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the leaders or their designees have been recognized under the standing order tomorrow, the Senate proceed to the consideration of S. 1988, and if there be any rollcall votes ordered on amendments to S. 1988 or on final passage thereof, that such votes not occur until the hour of 3:30 p.m., at which time the votes then occur on the amendments in sequence as they are called up before the Senate, and the vote on final passage to occur immediately after the vote on such amendments.

Be it provided further that upon the conclusion of debate on S. 1988, the Senate proceed to the consideration of H.R. 14449, the so-called OEO bill; that a vote on final passage of that bill, if a rollcall vote is ordered, not occur until the hour of 10:30 a.m. on Friday; and, provided further, that votes on amendments to the OEO bill may occur tomorrow at the time of the expiration of any such debate on amendments, and that paragraph 3 of rule XII be waived.

Provided further, that at no later than the hour of 1:30 p.m. tomorrow the Senate resume consideration of the amendment—I believe it is No. 17—the amendment in disagreement, in the conference report on the supplemental appropriations bill and, more specifically, the

providing public charter and flight rental service.

This unusual school was founded in 1906 by Rev. James Forsythe, a young Presbyterian missionary, to educate the mountain children at a time when there were few schools in the Ozarks. From a boarding grade school it evolved into a high school, then a junior college and finally, in 1964, became a full four-year nondenominational, coeducational college of liberal arts. Each change in curricula came in response to the slow increase of better public schools in the Ozarks and a gradual realization that a progressively higher level of education was needed as the region developed.

The scenic campus at Point Lookout, only two miles east of Branson, contributes to the overall tourism appeal of the Table Rock-Taneycomo area. Heading west on Highway 76 out of Branson today's visitor meets a partial resurrection of the former 160-acre Matthews homestead at Shepherd of the Hills Farm. An outdoor theater, claiming the second largest attendance in the country, adjoins the old mill where summer tourists witness nightly reenactments of *Ozark* family life during "Old Matt's" days.

Closer to Table Rock, on the opposite side of 76 is Silver Dollar City, sharing its site with Marvel Cave, whose 20-story high interior is said to be the third largest cave in the Nation. Silver Dollar City presents 19th Century craftsmen and actors working in a replica of an 1880 pioneer mining town that includes an old "tintype" photo studio as well as a retelling of the exploits of former Ozark vigilantes known as the "Bald Knobbers."

A helicopter ride provides aerial views of Table Rock, excursion boats offer lake tours, barns with distinctive hillbilly names offer country music and the local roads are lined with a ceaseless variety of small museums, zoos, restaurants, motels and shopping centers.

There is no doubt that Table Rock has been a boon to the Ozarks together with its sister lakes on the upper White River. As 1974 marches forward into the beginnings of another tourist season, the energy crunch will certainly rear its head in the Tri-Lakes area of Table Rock, Taneycomo and Bull Shoals. An early January article in the *Branson Beacon* reported a telephone survey of resort owners pointing to a consensus that more tourists would come for full vacations from shorter distances, but that the number of one- and two-days trips would decline.

Since then the winter snow and ice have disappeared, the dogwood, redbud and shadbush blooms have dropped, and the moment of truth is arriving for 1974. End of the year visitation tallies will help determine the direction of regional economic decisions for the near future. For the long range future of the Ozarks the very permanence of Corps lakes such as Table Rock serves as a man-made anchor among the economic waves of uncertainty. Table Rock's magnetism is not likely to diminish in its power to attract visitors to southwest Missouri.

POTTERING AROUND
(By Bill Potter)

The economic changes occasioned by the advent of Table Rock Lake and the forming of Lake Taneycomo are portrayed in an excellent piece of writing in a recent Corps of Engineers publication, "Water Spectrum."

Written by the Assistant Editor of the Corps written forum for the discussion of issues and choices in resolving water resource problems. The author of this particular article, Seymour Reitman, presents an interesting and interpretive paper on how these two projects—induced changes produced an economic boom in the Ozarks Shepherd of the Hills country—principal benefactors of both Table Rock Lake and Lake Taneycomo.

Names of individuals and factors that are familiar to those of us who know the Ozarks are given due credit for their part in helping make this area a bona fide tourist-attracting segment of our American heartland. Names like the Empire District Electric Co., builders and owners of Powersite Dam back in 1913 and the start of the now famous Rainbow trout stream—Taneycomo; the late Jim Owen, pioneer float-fishing major domo; the famous Ozark "johnboats" used by the float fishermen; Harold Bell Wright and Old Matt's cabin that became a best-selling novel, "Shepherd of the Hills"; Rockaway Beach, Hollister, and Forsyth—prominent Taney Court resort communities; Shell Knob; Kimberling City and John, "The Diver." And there is the growth of area banks such as Branson's two financial institutions, Peoples Bank & Trust and Security Bank. Mentioned also are the familiar names of School of the Ozarks, Silver Dollar City and Marvel Cave.

This excellent piece of "ink" for the Branson area is a real detailed documentary that earns Reitman a congratulatory nod for good, sound reporting of the facts.

It is an optomistic piece of writing because it relates facts—not fiction. Those of us who have watched the growth and the progress of the Shepherd of the Hills Country to a position of national prominence as a tourist-attracting area, can easily recognize by reading the article that the writer did his investigative reporting with an alert eye and ear to the influence and the impact the coming of Taneycomo and Table Rock lakes to this area has really meant to economic stability and progress.

Reitman's final sentence in the lengthy (and illustrated) article in "Water Spectrum" seems to sense the continuing good future of the area when he writes:

"Table Rock's magnetism is not likely to diminish in its power to attract visitors to Southwest Missouri."

Right on, Mr. Reitman, right on!

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974

The ACTING PRESIDENT pro tempore. The pending business is S. 1988, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. Who yields time on the bill?

Mr. MAGNUSON. Mr. President, the Senator from Alaska (Mr. STEVENS) and I are in charge of the time on this measure. I just do not know who in particular is opposed to this bill as of now. The Committee on Armed Services reported it favorably. The Committee on Foreign Relations reported it unfavorably by one vote, I think. The Committee on Commerce also reported it favorably, I think unanimously except for two votes in opposition. So I do not know just where the organized opposition is.

Maybe we ought to call up the State Department and have one of their people come up here and handle the opposition time. They were lobbying already this morning against the bill, which is of course their privilege.

I want to make an opening statement and, by that time, I guess, we will get a few Members in the Chamber, and then we can work this out.

They are bringing a statement over now from my office, so I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. The time to be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, the time will be equally divided on both sides, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

H.R. 8214, SENATE RESOLUTION 390, S. 2022, S. 2928, H.R. 13370, AND S. 3593 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following measures on the calendar be placed under the heading "Subjects on the Table": Calendar Order No. 949, H.R. 8214; Calendar No. 1075, Senate Resolution 390; Calendar No. 1090, S. 2022; Calendar No. 1113, S. 2928; Calendar No. 1120, H.R. 13370; and Calendar No. 1208, S. 3953.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that Calendar Orders No. 949 and 1120 be restored to their place on the General Order Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, the Senate has before it S. 1988 which is entitled the "Emergency Marine Fisheries Protection Act of 1974." It is intended to provide the United States with fishery management—and I underline the word "management"—jurisdiction over fish within a 200-nautical-mile zone and over an anadromous species of fish, such as salmon, beyond such zone for the purpose of managing and conserving such fish.

This assertion is necessary, because a

number of stocks of fish off our coasts are now either completely, or almost completely, depleted or seriously threatened—mainly because of foreign fishing. This applies to both coasts, the Pacific and the Atlantic, and to the gulf.

I want to stress that there are some people who are concerned about this measure, because there is a possibility, they and I hope, that we can arrive at a Law of the Sea Agreement, in the United Nations Conference to take place in Geneva in March, and I will talk about the conference a little later. But I want to stress that this is an interim measure. It will terminate automatically at the time a proper international agreement is forthcoming from the United Nations Law of the Sea Conference and is either in force or provisionally applied.

Mr. President, on June 1 of last year, the Senate adopted the Eastland resolution, Senate Concurrent Resolution 11. It was designed to "express a national policy in respect to support of the U.S. fishing industry."

That measure clearly recognized the pressures from foreign fishing fleets on our adjacent resources. It also underscored the need to act soon to protect these resources from further depletion.

Perhaps more important, it recognized that Congress might need to take interim measures to conserve overfished stocks and protect our fishermen. Today we are about to consider legislation which speaks directly to this need and the stated intent of the Senate more than a year ago.

My concern in this matter of conservation of our offshore fishery stocks began long before the introduction of S. 1988. But inquiries to our Department of State have always brought the same tiring, tedious answer, "Wait, we will take care of it." Well, they have not taken care of it at all.

May I suggest that I went to my first conference on these fishery matters 16 long years ago. Sixteen years, and still nothing has happened. In the meantime, the stocks have been depleted.

Wait, wait. They are probably calling up Senators around here today saying, "Oh, wait, we will take care of it."

Well, they made this same call about 16 years ago and nothing has happened.

"Give us time to negotiate and obtain agreements on conservation." Now we have more of the same—"Wait." This is their standard request.

Mr. President, I have used the word "wait" now about three times and I want to use it again—this is the fourth time.

Wait, wait, wait.

They were up at the United Nations with this problem for about 3 years, nothing happened. But they did pass a resolution up there, Mr. President, the first action they took and the only action—a resolution to adjourn the meeting to go to Caracas, Venezuela.

Well, they were down there and nothing happened. They had 100 or more items on the agenda, but they did not pass or agree on one. They finally agreed on another resolution to convene, to go to Geneva in March. Then after Geneva, they want to go to Vienna. That is a great seaport, Vienna; they understand fishery problems in Vienna.

I do not know what will happen beyond that, but they probably will just keep on going. Now, in the meantime, I say we have to do something to prevent the depletion of our fish stocks.

It was in the Law of the Sea preparatory meetings where our representatives hoped that the delegates from other nations might abandon the growing movement toward an extended economic zone in exchange for the so-called "species approach" proposal from the United States, and this was a legitimate effort, there are things to be said on both sides of that, but it did not arrive at any result.

It became increasingly evident to me that there was nothing wrong with our salesmen; they simply had the wrong product when they tried to sell the species approach. From the close of the 1973 Geneva preparatory meeting—now they are going back—we were asked to withhold legislative action until the just-ended Caracas meeting.

Mr. President, we have done a lot of waiting, more than our share.

I want to point out, because we only have a half hour and I will yield to other people who are interested, I just want to say again that this is an interim measure and that if they arrive at some agreement in Geneva, hopefully—I would not bet on it —but hopefully we will say, "Amen." This is simply a temporary measure to protect us and our fisheries.

Now, one other thing. We are entering a period of unemployment. I want to say that the unemployment in the American fishing industry has been at 10 to 15 percent for a long, long time, and it will get worse unless we send a message to the conference at Geneva, and unless we begin to protect our marine fisheries.

The foreign harvesting fleets off our coast, however, have showed no restraint in anticipation of some kind of world order in the matter of jurisdiction and harvest. In fact, they have expanded. This year, for the first time, we find East Germany and Poland with substantial fisheries on the west coast. These fleets are out to get all the fish they can, while they can, for they know that any agreement reached by the United Nations will be for broadened coastal nation interest and control.

On July 11 of this year at the Caracas Conference, the State Department's argument of delay in support of the species approach came to an abrupt halt. The U.S. Special Representative of the President and U.S. Representative to the Law of the Sea Conference, Ambassador John R. Stevenson, placed the United States in alliance with those willing to agree to some kind of 200-mile fishery jurisdiction.

The present position of the United States at the continuing Law of the Sea Conference is reflected in S. 1988. In fact, at the hearings before the Foreign Relations Committee, Ambassador Stevenson said of the new U.S. position:

> The fishing section gives the coastal state exclusive rights for the purpose of regulating fishing in the 200-mile economic zone, subject to a duty of conserve and to ensure full utilization of fishery stocks taking into account environmental and economic factors.

He then went on to say:

> In substance, there is no significant difference between the objectives of S. 1988 and the United States proposal at the Conference.

Mr. President, if we could assume that there might be agreement at the 1975 Law of the Sea Conference, we would still be faced with a period of years before a sufficient number of nations could accomplish ratification. To allow our offshore fishery stocks to continue under the present virtually unrestricted harvesting pressure of foreign fleets for such a period is to me unthinkable.

Testimony from Government witnesses advises that the United States plans to propose that any fisheries agreement achieved would be applied on a provisional basis. That is, it should be put into effect without waiting for the individual nations to ratify. The State Department stated:

> Provisions application is a recognized concept of international law and our proposal was favorably received.

May I call attention to the fact that such an action would not be much different in effect from the interim proposal we have before us today in S. 1988.

No one in the Congress could be more pleased than this Senator if agreement might be reached in 1975. I support world consensus on the fisheries question and feel it will mirror S. 1988.

Now that a mass of the earlier arguments against this legislation have been laid to rest by the passage of time, we are told that acting unilaterally is improper. International lawyers view the law of the oceans as a process of "continuous interaction; of continuous demand and response," a developing system whereby unilateral claims are put forward, the world community weighs the claims and then such claims are either accepted or rejected. This process of claim/counterclaim has molded the law of the sea for centuries. It is only recently that treaty lawmaking has been in vogue. I suggest that the international community's need for clear rules of action in the sea will be served by passage of S. 1988.

The issue is quite clear. We are either going to stand up for the proper management and conservation of the fishery resources off our coast or we are going to be concerned about what the world may say about us in the continuing law of the sea forum. I must cast my vote on the side of the fishery resources.

Mr. PASTORE. Will the Senator yield 5 minutes?

Mr. MAGNUSON. Yes, I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I ask unanimous consent that the statement that I made at the hearings in Washington December 6, 1973, be placed in the RECORD, and also the statement made at Providence, R.I., May 13, 1974, be placed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

S. 1988 AND H.R. 9136, THE INTERIM FISHERIES ZONE EXTENSION AND MANAGEMENT ACT OF 1973

(Remarks By Senator JOHN O. PASTORE)

For years, the United States has attempted to prevent the depletion of American fish

stocks and preserve the American fishing fleet by entering into international treaties such as the International Commission for the Northwest Atlantic Fisheries and many bilateral treaty arrangements.

Through treaties and agreements, the United States attempted to persuade foreign nations to moderate their fishing efforts off the American coast, not only to help American fisherman, but also to prevent the extermination of fishing stocks.

These efforts have not succeeded. With numerous treaties, including ICNAF, in force, we in New England have watched as the foreign fishing fleet off our shores burgeoned from a few vessels in the 1950's to hundreds of vessels currently. And most of these foreign vessels are more modern, larger and more efficient than most of our New England vessels.

The state of the American fishing fleet is a disgrace and this has been said too often for me to belabor it here except that I do want to note that while the American government has provided substantial subsidies for many industries, for too long the American fisherman was ignored. For the most part, our New England fishing vessels are individually owned vessels that are too small and far, far, too old to compete with the enormous factory ships and mother ships that cross the world's oceans with large satellites of smaller vessels to fish off New England. And even these smaller satellite vessels are larger and better equipped than the fishing boats of our New England fishermen.

We have watched as the haddock has practically disappeared, the yellowtail flounder has been seriously depleted and the herring and the cod are now endangered. While we were discussing orderly management and harvest techniques at the United Nations, massive foreign fishing fleets, using electronic methods, have been decimating our offshore resources. The time for watching is over.

Because, as we watched, Boston, once one of the proudest and largest fishing ports in the northwest Atlantic, now has a small, barely surviving fishing fleet. Hundreds of fishermen were driven from their livelihood on the sea as foreign fleets virtually exterminated the haddock.

For years the fishing fleet of Gloucester, once the greatest fishing port in America, struggled for survival. In New Bedford, which remains one of the leading fishing ports on the East Coast, the viability of a fleet and hundreds of jobs are threatened as our stocks of yellowtail flounder are steadily diminished.

In Rhode Island, our fishermen have been more fortunate than the fishermen in our sister state of Massachusetts. Fortunately in Point Judith, we had an extremely capable group of fishermen, led by Jake Dykstra, who formed what was the first successful and viable fishermen's cooperative association on the East Coast, perhaps in the United States —the Point Judith Fishermen's Cooperative Association.

The Point Jude Co-Op's marketing arrangements, the nature of the fleet in Point Judith and the resourcefulness of the fishermen gave them the capability of switching from one species to another depending on the market and availability of the fish. It was this kind of flexibility that has been a key to whatever success Point Judith has had in staying afloat.

A good example of this is the way in which Rhode Island fishermen geared up to fish offshore lobsters when techniques for profitably taking those stocks were developed a few years ago. Rhode Island fishermen and fishermen from New Bedford were among the first to exploit the offshore lobster stocks.

Studies by the National Marine Fisheries Service indicated there was an abundant supply of offshore lobster that could tolerate heavy fishing without being depleted.

The Japanese assured us that they would not catch offshore lobsters but many of our fishermen have reported sighting Japanese vessels taking lobsters offshore.

The Russians assured us they were not interested in taking lobster. But the massive gear they drag along the ocean bottom scoops up everything in its path. And while we have been able to board Russian vessels for on-deck inspections, we have been prohibited from inspecting holds where lobsters would be stored.

It is not accidental that after a bonanza year for Point Judith fishermen in offshore lobstering in 1971, the offshore stocks were practically wiped out by the following year. Now it was not Point Judith fishermen who depleted those stocks, but rather the scores of huge Russian vessels that pounded those offshore beds with heavy equipment for months in the winter of 1971–1972.

We thought we had understandings with the Japanese and the Russians but those understandings left us with scores of fishermen who lost thousands of dollars in investments. Because after gearing up to take lobsters, they had to switch to other species after the offshore lobster stocks suffered so under foreign pressure.

The depletion of offshore lobster stocks was so severe that at Point Judith alone, offshore landings in 1972 fell of 500,000 pounds from 1971 and preliminary indications are that the 1973 landings could be down one-third from the 1972 landings.

Now I realize that a half million pounds of lobster is not a large figure when compared to the total lobster landings in New England or even when compared to Maine's lobster landings.

I tell the story only to illustrate the point that intense foreign fishing pressures over even a short period of time can have an extensive and direct impact on our rapidly depleting marine resources.

We all remember the difficulties Westport and New Bedford offshore lobstermen have encountered over the past few years with Russian vessels plowing through their sets of lobster gear tearing up hundreds of thousands of dollars in equipment.

I am therefore happy to say that I am a cosponsor of S. 1988, a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry. This bill would extend the present fisheries zone to 197 miles which, with the 3-mile territorial limit, would give protection to fisheries for a distance of 200 miles. The reason for my cosponsorship is a simple one. I cannot stand by and watch the foreign competition harvest the fish which should be on American dining tables.

My interest in this matter extends to the sport fisherman as well.

It was not too long ago that I provided by way of supplemental appropriation additional Coast Guard protection of our lobster fishermen who had been harassed by the Russians within 200 miles of our shore.

Our traditional fishing grounds off Rhode Island have been depleted. The foreign trawlers catch fish, bone it, and freeze it on board. They are far ahead of us in this regard.

I know that there are some fishermen who would oppose this 200-mile limit. It doesn't protect the salmon fishermen on the west coast, in the northwest and Alaska. It doesn't set well with the tuna fishermen because this limit is what the Peruvians are trying to do to them now. It doesn't please the shrimp fishermen because of their high-seas shrimp fleet.

However, all attempts to come to an international agreement based on a biological rather than geological basis have been ineffectual.

Therefore, it is necessary for the United States to move unilaterally until such agreements can be worked out. We cannot sit and wait while our own coastal waters are being depleted by foreign trawlers of nations who are holding up negotiations.

I am pleased today to hear the testimony of Jacob Dykstra, President of the Point Judith Fishermen's Cooperative Association, Inc., who is a proponent of this legislation. I am sure his views will point out the need for direct action by the United States immediately.

OPENING STATEMENT

(By Senator JOHN O. PASTORE)

Today, the Senate Commerce Commitee's Subcommittee on Oceans and Atmosphere continues a series of hearings we have been holding on legislation which would extend American jurisdiction over ocean fishing from the current 12-mile limit to 200 nautical miles on an interim basis. We have held hearings in Washington, D.C., the state of Washington, Alaska and California. Tomorrow a field hearing will be held in Boston.

I want to welcome to the bench my good friend Ted Stevens of Alaska who is cosponsoring with me S. 1988. Senator Stevens is the senior minority member on the Oceans and Atmosphere Subcommittee and a strong supporter of a 200-mile fisheries zone.

We on the Commerce Committee view field hearings such as this one as absolutely vital to a full discussion of this legislation which is the most important national fisheries issue now before the Congress, an issue which is vital not only to our fishermen but to all Americans.

We have taken our hearings into the field because this issue *is* so critical and because we have to make every effort to obtain as wide a range of views as possible on the matter. It is impossible for everyone to journey to Washington to testify and that's why we're here.

We have scientists from the University of Rhode Island, members of the General Assembly and representatives of sportsfishermen's groups scheduled to testify.

But we also want to hear from the commercial fishermen who, on a day-to-day basis, must confront the massive foreign fleets operating just off our shores. I know that the fishermen have a most articulate and capable spokesman in Jake Dykstra but if there are any fishermen here who would like to speak and who are not scheduled we would be happy to hear from you after the scheduled witnesses have finished testifying.

We are sponsoring this bill for two fundamental reasons. Because we have to protect our fleets—our fishermen who have a tradition of three centuries of going out to sea and who are now losing their livelihoods by the thousands. And because we have to move quickly before breeding stocks of already seriously depleted species are endangered.

Virtually every single commercially valuable fish in the waters off New England is being rapidly depleted. You can name them—the cod, the haddock, the lobster, the Atlantic herring, the yellowtail flounder, the Atlantic mackerel, the Atlantic halibut.

If anyone needs to be convinced of the impact made by the foreign fleets on our New England fishermen let's take a look at what has happened to Gloucester and New Bedford and Boston.

Boston was once the home of one of the proudest and largest fleets on the northwest Atlantic. Now it has a tiny fishing fleet. Thousands of Boston fishermen were driven from their livelihood on the sea as foreign fleets virtually exterminated the haddock and Boston was once the biggest haddock port in the world.

Gloucester was once the greatest fishing port in America. Today her fleet struggles for survival. In New Bedford, which remains one of the leading fishing ports on the east coast, the viability of a fleet and thousands

of jobs are threatened as our stocks of yellowtail flounder steadily diminish.

Now I know—all of us who are sponsoring this legislation—Senator Stevens, Senator Magnuson, we know that ultimately the solution to the problem of the systematic destruction of our marine fishery resources by overfishing can only come when the nations of the world agree to an international regulatory regime governing the exploitation and the conservation of the world's fishery resources.

But, we feel very strongly that our fisheries and our fishermen must be given interim protection until such international agreements go into effect. Otherwise there may be nothing left to protect.

After three years of preparation, the Law of the Sea Conference will get under way in Caracas a little more than a month from now on June 20.

What are the prospects of rapid agreement? Just two weeks ago in Washington, Kenneth Rush, the Acting Secretary of State, testified before this committee— rather reluctantly I might add, and only after being prodded several times by questions—that the Department of State does not expect an agreement this summer.

He expressed uncertainty about obtaining an agreement by 1975. Well, it may be several years before deliberations are completed. And it's going to take a few more years after that—some have testified as many as 10 years—before the requisite number of nations will ratify the treaty to implement it.

So now we are talking about 1980 or 1985 or even beyond before we have a working international instrument. Now if we continue to sit on our hands, which is the position of the State Department and the White House, there are just not going to be enough fish left worth protecting by 1980.

We have taken testimony in Washington, but I want to repeat it here in Providence, that by 1980 the world's fishing fleets are expected to take 100 million tons of fish. Scientists tell us that 100 million tons is the maximum yield of fish that can be taken from the oceans of the world annually without doing biological harm to world breeding stocks. The world's fishing fleets are now harvesting about 70 million tons of fish annually.

These are the best projections available to the National Marine Fisheries Service. But in the face of this kind of forecast, the State Department and the National Oceanic and Atmospheric Administration nevertheless come before us to tell us that we are making a serious mistake in considering this legislation. They plead with us to do nothing until the Law of the Sea Conference completes its deliberations.

The State Department tells us that if the United States takes unilateral action in extending its fisheries zone to 200 miles the U.S. position at Caracas will be jeopardized.

I am in direct disagreement with the Department of State and so are a considerable number of Senators and Congressmen. Indeed, we feel that Congressional approval of a 200-mile limit bill will strengthen the position of our negotiators at Caracas. In fact, many observers tell us a 200-mile fisheries zone is likely to come out of the Law of the Sea Conference anyway.

We can no longer tolerate or afford delay because foreign fleets, anticipating a 200-mile zone coming out of the Law of the Sea Conference, are increasing their activity off our shores. Once a 200-mile fisheries zone is established they will then be able to negotiate with us downward from a higher number of vessels because, and we all know this, a 200-mile zone will mean a gradual reduction in the number of foreign vessels, not a disappearance of all foreign vessels.

There is no question that if we do not take action quickly to try to moderate foreign fishing pressure in New England waters and in other American coastal areas, some species are going to be irreversibly depleted. This is not just rhetoric because the National Marine Fisheries Service has done study after study demonstrating the decline of important New England fish stocks under the impact of foreign fishing fleets.

I am concerned about further delay and I remain skeptical about the effectiveness of international negotiation despite some heralded successes in establishing overall fishing quotas by the International Commission for the Northwest Atlantic Fisheries (ICNAF) last October in Ottowa.

My concerns flow from the fundamental lack of success of ICNAF, a vehicle for international negotiation, over the past quarter century. Now ICNAF was established when the Northwest Atlantic—the fishing grounds off New England, the Georges Bank and the Grand Banks—was still the richest and most prolific fishing grounds in the world.

With ICNAF watching—these great fishing grounds, which New Englanders fished for centuries without doing ecological damage—the foreign fleets moved in and decimated the largest stocks of fish in the world.

Not until the very existence of the haddock was imminently threatened did ICNAF take firm action late last year. But the damage to the haddock was so great that the member nations of ICNAF were forced to clamp a ban on all directed fishing for haddock.

For decades the Georges Bank haddock fishery had been yielding 50,000 metric tons annually, mostly to American fishermen. This is the maximum the Georges Bank haddock fishery could yield without sustaining biological damage. Our scientists knew this when the foreign fleets moved in in the 1960's and disrupted the balance sustained for so long by our New England fishermen.

Now, from a point 30 years ago where we took 50,000 tons of haddock yearly from the Georges Bank, our fishermen have been enjoined from going out and fishing purposely for haddock. Only accidental catches of haddock taken while fishing for other species are permitted.

This is not secret information. The facts and figures concerning the demise of the haddock have been developed by the National Marine Fisheries Service which has been documenting this catastrophe for 10 years now. But what did the United States do about it? Nothing! Nothing effective was done until the haddock was on the edge of extermination and it still remains to be seen if the October ICNAF agreements will work or can be enforced.

I will not document what has happened to the yellowtail flounder or the herring or the cod but the tale of massive depletion of these species in the face of inaction by the United States is similar if not quite as dramatic. It is a story clearly told in the statistics and documents furnished me by the National Marine Fisheries Service.

What I am saying is this is crisis fisheries management and totally inadequate. We have to move before our fishes and our fishermen are on the endangered species list.

And what I am saying is that 25 years of international negotiations involving 16 countries through ICNAF has been tragically ineffective. The time for waiting for international negotiations to succeed is over. That is what I am saying and that is what my colleagues such as the distinguished Senator from Alaska—who has witnessed the same ecological disaster occur in the waters of his state—are saying.

Let me take a moment to describe the bill. S. 1988 is an interim measure to extend the contiguous fisheries zone of the United States to protect our resources and our fishing industry until agreements are reached. The bill mandates the Secretary of State to initiate negotiations as soon as possible with all foreign governments whose vessels now fish off American coasts to regulate—not eliminate—foreign fishing from American coastal waters. The government would also be mandated to seek international negotiations for the rational use and conservation of American fisheries resources. The bill would authorize the Secretary of Commerce to carry out or subsidize research to improve conservation of fish and it would authorize $1 million for that purpose.

Before we proceed, I want to note that my colleague Senator Pell, and our Congressmen Fernand St Germain and Robert O. Tiernan have submitted statements for this hearing and I now want to introduce them into the record.

I welcome you all here today and look forward to your testimony.

Our first witness is. . . .

Mr. PASTORE. Now, Mr. President, let us understand what this is all about. No one wants to interfere with the freedom of navigation on the seas, and this is not the purpose of the bill at all. Anybody who wants to ship to the United States of America can come here and come within the 200-mile limit and nobody is going to bother him. That is not the purpose at all. The purpose here is conservation.

When I was up in Rhode Island at the hearings on May 13, 1974, they showed us these slides; these fishermen showed us these slides.

Here is this big Bulgarian ship, almost as big as one of our old battleships, with all kinds of equipment on board, going up and down the Rhode Island coast destroying our lobster pots, destroying all of our fishing nets, and we are trying to save and conserve our fishing industry. It is not alone the economics, Mr. President; it is a question of propagation of the species.

They come in here from Russia, they come in here from Japan, they come in here from Bulgaria, they come in here from all over the world. They just sweep up all of our fish. There is nothing left. The haddock is all gone and it is hard to find lobster anymore, and the few pots they have out there are being destroyed. Suit after suit is being brought; nothing is being paid, and that is what we are up against.

Now we are saying here, give us a chance, give us a chance in management. We are not prohibiting anybody coming in, but what we are trying to do is to manage this in such a way that everybody can eat the fish, not alone the Bulgarians, the Russians, and Japanese.

That is what this is all about, and I hope that the Senate will go on record. There is a limitation on this bill. It goes out of effect immediately upon a multilateral agreement. We are looking forward to it, but as the manager of the bill already pointed out, the distinguished Senator from Washington, for 12 years they have been promising a multilateral agreement and nothing has ever happened.

I am afraid that unless we in Congress take a step, nothing is ever going to happen, and the purpose of this bill is to give them a nudge at Geneva. If we pass this bill today in the Senate I will

guarantee that the tone in Geneva will be a lot different than it was in Caracas where it was an absolute dismal failure.

Mr. President, it is imperative that the Congress move as expeditiously as possible in passing S. 1988, the Emergency Marine Fisheries Protection Act of 1974.

With each passing day, the importance of enacting this bill into law increases. The stakes are not small. The continued existence of the American fishing industry is at stake. An industry that is built upon ocean fishing, one of the oldest commercial enterprises engaged in by Americans, is directly threatened and little has been done to help our fishermen despite the fact that the warning flags have been flying now for nearly two decades. It appears that the Congress is going to have to take the initiative and S. 1988 would be a small step toward helping our fishermen survive under the increasingly intense pressures of massive foreign fishing fleets.

Furthermore and perhaps more critical in the long run, the continued existence of some of our most important stocks of ocean fish is in direct and imminent danger. The oceans provide one of the world's most important resources of food. While the nations of the world grope in the next decade to solve the world's problem of food shortages and to elliminate starvation, it is absolutely essential that the seas continue to yield up an undiminished supply of food and protein.

Yet this is no longer a certainty. We once thought the oceans of the world would yield 100 million tons of fish annually without biological damage being done to fish stocks and that this maximum sustainable yield would be achieved by about 1980. But we now find that feverishly intensive fishing has caused biological damage to fish stocks in some areas and we are no longer certain that total fish harvests will continue to increase year by year by year. After taking for granted what we thought were the limitless resources of the seas, we suddenly are shocked by how limited they actually are.

We want to deprive no one of the food he needs; we want to prevent no nation from fishing to feed its hungry people. But we must take immediate steps to conserve our fish supplies. We must immediately begin implementing conservation and fish management programs to insure that there will be fish left in the oceans for our grandchildren.

This bill will be a small move in the right direction. This bill would bring the U.S. Government into the active management of fishery resources. The bill would at least force other nations to confront the problem of fisheries depletion and perhaps persuade them to join with the United States in conservation efforts.

The State Department h s testified repeatedly at our hearings that this bill will damage our foreign relations with respect to our open seas policy. This bill does not affect the completely free movement of ships of any other nation between the U.S. 3-mile territorial sea limit and the proposed 200-mile fishery zone limit. Nothing will change with regard to the traditional American policy of respecting the concept of freedom of shipping on the high seas.

If an international negotiated settlement of a 200-mile fishing zone could be reached quickly, it would be most desirable, but such a settlement is nowhere in sight. The long-awaited and much-heralded Law of the Sea Conference in Caracas has brought us no closer to this goal. In the meantime, without effective steps to regulate the intensity of foreign fishing off our shores, our fish stocks, at one time the greatest in the world, will continue to decline under steadily increasing foreign fishing pressures. We certainly do not propose to eliminate foreign fishermen from fishing off America's shores, but only to moderate these fishing pressures somewhat. This bill would give the U.S. Government the tools to reasonably regulate, by negotiation, foreign fishing effort. And it must be remembered that this is an interim measure that will remain effective only until the United States can negotiate an extended fishing zone with the other nations of the world.

This bill must be enacted into law now, and we must immediately move to implement good management and conservation policies if we do not want to see the oceans of the world slowly become depleted of edible fish.

I thank the Senator for yielding me the time.

Mr. STEVENS. Mr. President, I yield such time as the Senator from New Hampshire may use.

Mr. COTTON. Mr. President, I am a cosponsor of this bill and am in complete accord with everything the Senator from Washington and the Senator from Rhode Island have said.

I think that the President has been misled and ill-advised concerning the effect of this bill and the need for it. It is imperative this bill be passed.

Therefore, as a cosponsor of the pending bill, S. 1988, I wish to express my strong support for this legislation, carrying the short title of the "Emergency Marine Fisheries Protection Act of 1974."

Mr. President, in expressing my support for S. 1988, I am well aware that the President and several representatives of the executive branch have communicated their respective opposition to this bill on the grounds that "passage could seriously harm U.S. oceans and foreign relations interests," and that our best opportunity for resolution of the problems which S. 1988 addresses lies in "a comprehensive new oceans law treaty now being negotiated within the Third United Nations Conference on the Law of the Sea."

The President has further stated that pending such a comprehensive new ocean law treaty he "will do everything possible consistent with our present legal rights to protect the interests of U.S. fishermen and to preserve the threatened stocks of living resources off our coasts."

Mr. President, I believe that the executive branch is sincere in its belief, albeit somewhat misguided, in the opinion of the Senator from New Hampshire, that S. 1988 is not needed at this time. However, Mr. President, I feel quite strongly that the contrary is true. The Emergency Marine Fisheries Protection Act of 1974 is needed, and it is needed now. This legislation was introduced almost a year and a half ago by the distinguished chairman of our Committee on Commerce, Senator MAGNUSON, along with myself and several other concerned Senators. It has received the most careful consideration not only by our Committee on Commerce, but by the Senate's Committee on Foreign Relations and by the Committee on Armed Services. Our own Committee on Commerce conducted no less than 12 days of hearings on this legislation and 8 days of those hearings were conducted in sites outside of Washington, D.C., in coastal areas most dependent upon the conservation of our fishery resources.

S. 1988 was approved overwhelmingly by the members of our Committee on Commerce. It was approved on a vote of 8 to 6 by our Committee on Armed Services, and by the very narrow vote of 8 to 9 failed to be reported favorably by the Committee on Foreign Relations. I know of few bills that have undergone the scrutiny of several committees in this fashion and survived to be considered by the full Senate.

Quite frankly, Mr. President, I believe that many who have sought to oppose S. 1988 have failed to appreciate fully two very significant points. First, with S. 1988 those of us sponsoring the legislation are seeking to fill a void by providing some immediate national action to conserve valuable fishery resources off our own shores which are in danger of being seriously depleted by excessive fishing activities conducted by foreign nations. Second, as described in the very title of the bill, we seek to extend on an interim basis this jurisdiction over fishery resources only to 200 nautical miles as an emergency measure to protect our domestic fishing industry. Accordingly, S. 1988 further provides—

That its provisions shall expire and cease to be of any legal force and effect on such date as the Law of the Sea Treaty, or other comprehensive treaty with respect to fishery jursdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

In summary, Mr. President, we are not proposing in the Emergency Marine Fisheries Protection Act of 1974, that we close our eyes to the international negotiations still underway at the Third United Nations Conference on the Law of the Sea. On the contrary, these international efforts have been specifically recognized. But, recognizing the time needed to develop an acceptable law of the sea treaty, as demonstrated by the futility of the negotiating sessions this past summer in Caracas, Venezuela, this bill seeks only to protect our economic interests as a coastal state, a concept already recognized and acknowledged in the current international negotiations.

Finally, Mr. President, I would conclude by observing that although my State of New Hampshire has a relatively short coastline, it, along with its sister New England States, has a fishing industry of significant economic importance and one which is of a long-stand-

ing tradition. That most important industry today faces severe economic hardship, not from within our borders, but from outside in waters beyond our present fishery jurisdiction in traditional fishing grounds which are in danger of having their resources depleted by the activities of foreign fishing fleets. S. 1988 is in the interest of our coastal States and in the interest of our nation if we are to be able to look to the sea as a source of food in the future. And, Mr. President, it is for this reason and in keeping with these interests that I urge the favorable consideration of the Emergency Marine Fisheries Protection Act of 1974, by my colleagues in the Senate.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Maine.

Mr. MUSKIE. I thank the distinguished Senator from Washington.

At the outset I compliment Senator MAGNUSON and Senator STEVENS, and the other members of the committee, who have been pursuing this matter so diligently. I have had the opportunity to observe their efforts closely, both in Washington and in Caracas. And their effectiveness regarding this legislation is a tribute to the leadership qualities of these two Senators.

Mr. President, S. 1988 is one of the most important bills to come before the Senate during this entire session of Congress. Simply put, this legislation would provide the United States with management jurisdiction over fish within a 200-mile nautical zone, pending the conclusion of an international oceans agreement. The bill also provides special protection for anadromous species that are hatched in this country and then migrate out into the high seas before returning to spawn in the streams of their origin.

There is an urgent need to enact this interim legislation. Fishermen off both our east and west coasts are rapidly losing the livelihood of generations because as a nation we have not responded adequately to global developments in recent years, allowing our fishing industry to sink to a low state in our national priorities.

Specifically, within the last 5 years, the fishing effort of foreign fleets off our coasts has increased severalfold, in a way which has been so dramatically described by the distinguished Senator from Rhode Island (Mr. PASTORE).

At any given time large groups of foreign vessels can be sighted off our shores. In fact, the world's fishing effort is now so much greater than a decade ago that stocks can be decimated in a season or two, a rate much faster than international negotiations are likely to impose effective regulation upon them.

The situation in the Gulf of Maine is illustrative of the gravity of the situation. In 1969, Maine fishermen landed more than 54,000,000 pounds of herring. In 1973, they landed 37,000,000 pounds. In 1969, Maine fishermen landed more than 58,000,000 pounds of groundfish and ocean perch. Last year, they landed only 36,000,000 pounds. In 1969, Maine fishermen landed almost 18,000,000 pounds of whiting. Last year landings of whiting in Maine dropped to 5,500,000 pounds.

Similar declines in landings can be shown for other species. The simple fact is that as a result of a massive foreign fishing effort off our coasts in the last few years, scientists have now concluded that about 25 stocks of fish are depleted or threatened with depletion.

At present, the United States is party to 22 international fishing agreements and virtually all of the fish stocks depleted or threatened with depletion are subjects of these agreements. Obviously, further steps must be taken to prevent the depletion of our offshore stocks—for the sake of conserving the world's fisheries resources as well as preserving the U.S. fishing industry. And enactment of S. 1988 is the most effective interim step that our Government can—and should—take to manage, regulate, and control the taking of fish within 200 miles of our shores.

During the first week in August, along with Senators STEVENS and PELL, I attended the Caracas Conference. At the time, I indicated my support for S. 1988. Reaction was predictable—that this kind of unilateral action could conceivably torpedo the Conference. Well, with respect to the Conference, let me state my own view.

My first impression from visiting the Caracas meetings is that the prospects for eventually writing a new law of the sea are more promising than I expected them to be before I attended the Conference. But my second impression is that achieving that goal is going to take much longer than the more optimistic delegates to the Conference would like to suggest. After 5 years of preparatory work, the Conference is still bogged down in preliminary matters. About 60 of the 149 nations are still trying to develop their own national positions on the use of the seas, while many of the others have widely divergent points of view.

Even Ambassador Amerasinghe, the chairman of the conference, has expressed public doubt about the possibilities for progress at the conference in the near term. His colleague from Sri Lanka, C. W. Pinto, perceptively summarized the progress achieved in Caracas when he said after the meetings concluded at the end of August—

> Progress has been not in bringing the sides closer together, but in clearly defining where they are farthest apart.

It is my own guess that it will take at least until 1976 before the nations represented at the conference can work out the complex range of issues—and there are some 90 of them in number—that must be worked out if a new law of the sea is to be written. Time and time again in discussions with foreign diplomats in Caracas, I heard it said that "we need time to build new international law." Certainly, time is needed for ideas to mature concerning some of the more complex issues the conferees are dealing with.

But if we are to preserve our offshore stocks, I do not think we can afford to wait until the Law of the Sea Conference produces a treaty. For by the time this takes place, there will be precious few offshore stocks to protect.

In Caracas, several foreign delegates suggested to me and the other U.S. Senators attending the conference that the United States ought not to act irresponsibly by enacting unilateral fish legislation, such as the bill before us today. If we are being asked to exercise restraint with respect to this kind of legislation, then it seemed to me not unreasonable to ask restraint in the shortrun of those who have created the problem off our coasts—the Soviets, the Germans, the Poles, the British and the Japanese. But when I suggested this to their delegates in Caracas, I got very little positive response and sensed that few of these nations share our sense of urgency about the need to protect offshore fish stocks in the North Atlantic.

And upon my return to this country, I was further disturbed by an increasing lack of restraint on the part of those countries which are fishing off the coast of my own State of Maine. Haddock is already an endangered species. And yet Britain is now beginning to fish for haddock off our coasts—in complete violation of the zero quota for haddock in the North Atlantic agreed to at the recent ICNAF meetings.

In addition, this summer there have been a number of incidents—and the number is increasing—of intrusions upon the fixed gear of our herring fishermen. These intrusions constitute nothing but wanton and apparently deliberate destruction, leaving our fishermen with little but uncertain claims against nameless perpetrators.

Where is the restraint on the part of these countries and their fishing fleets with respect to intrusions upon our coastal waters, our Continental Shelf, and our fishermen? Where is the restraint with respect to the incidental fishing that has not been negotiated under ICNAF—of lobster and other ground species? That incidental fishing goes on without any pretense of control under ICNAF. And no restraint is shown.

So I say that the lack of restraint on the part of the great maritime powers of the world is a greater danger to the Law of the Sea Conference than this legislation.

Now, there is a recent precedent for taking a hard-nosed attitude to protect our fishing interests. And that precedent has to do with the ICNAF agreements themselves.

In June of 1973, the 17 member nations of the International Commission for the Northwest Atlantic Fisheries held their annual meeting and discussed the need to limit the total fishing effort in the Northwest Atlantic. The meeting did not produce any agreement, largely because this country could not get any other members to exercise restraint. But during the summer of 1973, in large part due to domestic political pressure, the U.S. Government announced that it would withdraw its membership from ICNAF if concrete progress was not made in 1973 to limit foreign fishing in the Northwest Atlantic. As a result, in October of 1973, a special meeting of ICNAF was convened in Ottawa at which an

agreement was reached on an overall quota system for the fisheries off the Atlantic coast of the United States. The quotas reached applied to both individual species—some 54—and to the overall fish catch.

For 1974, the overall quota was set at 929,000 metric tons. For 1975, the overall quota was to be reduced to 850,000 metric tons, with the U.S. share of the total quota increasing from roughly 20 to 25 percent in 1975. And for 1976, the member nations have agreed to set an overall quota at a level consistent with maintaining the maximum sustainable yield.

The difficulty with this agreement is that it is not enforceable. It is not being enforced now, nor is it enforceable against what the British are doing. And it is not having any effect at all in protecting our fishermen and fish gear from deliberate sabotage and destruction of their gear.

May I say that protecting our offshore fishery stocks is something more than a national interest. It is a global interest. If we coastal states do not take effective action to protect these stocks, who in Heaven's name is going to do so?

The Russian fishing fleet? The Japanese fishing fleet? There is no evidence to support any such possibility.

So I say it is proper and necessary for Congress to enact this legislation. And whatever doubts I may have had on that score before I went to Caracas have been resolved by my attendance at that conference, notwithstanding the fact that I remain convinced that an enforceable international agreement on the use of the oceans is the best way in the long run to stop the overfishing which threatens to ruin our fisheries resources.

One final point about S. 1988. And that is that this legislation is consistent with the U.S. position as enunciated in Caracas. In a major statement on July 11, Ambassador Stevenson, head of the U.S. delegation to the Conference, announced a new U.S. position on the concept of a 200-mile economic zone.

At the time, he stated that—

This country is prepared to accept, and indeed, would welcome general agreement on a 12-mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone provided that it is part of an acceptable comprehensive package.

The point is, moreover, that the new U.S. position accepts the concept of 200 miles for fishery management jurisdiction. It also accords with the two other fishery management proposals contained in S. 1988—that management of anadromous species such as salmon be handled by the nation in whose rivers they spawn and that managemnt of migratory species such as tuna be handled through international commissions.

But, Mr. President, this legislation differs from the official U.S. position in one critical respect. It recognizes the urgency of today's situation and mandates immediate interim unilateral action to regulate and conserve our offshore marine resources. This is precisely the reason why I rise to support this legislation and urge its passage.

Mr. President, on behalf of the distinguished Senator from Washington (Mr. MAGNUSON), Senator STEVENS, Senator KENNEDY, Senator PACKWOOD, Senator WEICKER, and myself, I call up my amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

"SEC. 13. Secton 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c; 70 Stat. 1121), as amended, is further amended by adding the following new subsection:

"(f) (1) The Secretary of Commerce is authorized, under such terms and conditions as he may prescribe by regulation to use funds appropriated under this section to compensate owners and operators whose fishing vessels or gear have been destroyed or damaged by the actions of foreign fishing vessels operating in waters superjacent to the Continental Sheif of the United States as defined in the Convention of the Continental Sheif.

"(2) Upon receipt of an application filed by an owner or operator pursuant to this subsection after the effective date of this subsection by the owner or operator of any vessel documented or certificated under the laws of the United States as a commercial fishing vessel and after determination by the Secretary that there is reason to believe that such vessel or its gear was destroyed or damaged while under the control of such owner or operator in waters superjacent to the Continental Shelf of the United States by the actions of a vessel (including crew) of a foreign nation, the Secretary shall, as soon as practicable but not later than 30 days after receipt of an application, make a non-interest-bearing loan to such owner or operator from the fisheries loan fund created under subsection (c) of this section. Any such loan, as determined by the Secretary, shall be in an amount equal to the replacement value of the damaged or destroyed property and the market value of fish, if any, onboard such vessel and within such gear which are lost or spoiled as the result of such damage or destruction. Any such loan shall—

"(A) be conditional upon the owner or operator of such damaged or destroyed property assigning to the Secretary of Commerce any rights of such owner or operator to recover for such damages;

"(B) be subject to other requirements of this section with respect to loans which are not inconsistent with this subsection; and

"(C) be subject to other terms and conditions which the Secretary determines necessary for the purposes of this subsection.

"(3) The Secretary of Commerce shall, within one hundred and eighty days of receipt of a loan application, investigate each incident as a result of which a loan is made pursuant to this subsection and—

"(A) if he determines in any such case that the destruction or damage was caused solely by a vessel (including crew) of a foreign nation, he shall cancel repayment of such loan and refund any principal paid thereon prior to such cancellation and seek recovery from such foreign nation;

"(B) if he determines that the damage or destruction was not caused solely by a vessel (including crew) of a foreign nation or solely by the negligence or intentional actions of the owner or operator of the vessel, he shall require such owner or operator to repay such loan at a rate of interest determined by him, pursuant to subsection (b) of this section, which rate shall be retroactive to the date the loan was originally made; or

"(C) if he determines that the damage or destruction was caused solely by the negligence or intentional actions of the owner or operator, he shall require the immediate repayment of such loan at a rate of interest determined by him, pursuant to subsection (b) of this section, which rate shall be retroactive to the date the loan was originally made.

"(4) The Secretary of Commerce and the Secretary of State shall, with the assistance of the Attorney General, take steps to collect any claim assigned to him under this subsection from any foreign nation involved. Amounts collected on any such claim shall be deposited in the fisheries loan fund.

"(5) This subsection shall apply with respect to damages or destruction of vessels or gear occurring on or after January 1, 1972.

Mr. MUSKIE. Mr. President, I have discussed this amendment with the distinguished Senators MAGNUSON and STEVENS. Indeed, they are cosponsors of it.

This amendment is designed to deal with a serious problem resulting from the increasing incursion of foreign fleets into our offshore waters—the problem of reimbursement of American fishermen for damage to their vessels or gear caused by foreign fishermen.

For many years, fishermen off both the east and west coasts have suffered serious and often disastrous economic losses as a result of damage to their gear caused by foreign fishermen. There are international procedures for making claims against foreign vessels which damage or destroy fishing gear. But current procedures are slow, cumbersome, and seldom effective, with the result that most American fishermen do not even bother going through the laborious process of filling out the necessary claims forms. And in a given case, even if the claims process is eventually successful, the individual fisherman with a median income of $8,000 per year is forced to carry the financial burden of between $2,000 and $4,000 for several months or longer.

This summer there were a series of incidents damaging the fixed gear of fishermen off the Maine coast. These incidents of wanton and apparently deliberate destruction by West German ships left our fishermen with only the most uncertain claims against the identified perpetrators. Under the existing procedures, the most likely result of recovery efforts is that nothing will happen.

It is bad enough that we are allowing foreign fishermen to deplete our offshore stocks and to threaten the health of the U.S. fishing industry. We must not continue to allow foreign fishing vessels to destroy the gear of American fishermen without providing adequate and immediate financial reimbursement for our fishermen.

The amendment I am introducing today is designed to meet this problem. Specifically, this legislation would require the Federal Government within 30 days to assume financial responsibility for losses to U.S. fishermen caused by foreign vessels, pending international negotiations to recover the loss from the for-

eign government involved. In cases where there is reason to believe that damage or destruction did in fact occur as a result of foreign fishing activities, documented claims would be paid by the Secretary of Commerce in the form of a non-interest-bearing loan from the fisheries loan fund set up under the Fish and Wildlife Act of 1956.

Congress created this fund expressly to finance or refinance the cost of purchasing, constructing, and equipping, maintaining, or operating commercial fishing vessels or gear. The loan would be made in an amount equal to the replacement value of the damaged or destroyed property and the market value of fish on board a damaged or destroyed vessel or within lost, damaged, or destroyed gear. After the Secretary of Commerce has completed an investigation of the incident—an investigation which must be completed within 6 months after the loan application has been filed—the loan would be converted to a grant if it were found that the American fisherman was not at fault. If, however, the Secretary found that the damage or destruction was caused by an act of God such as a storm, the non-interest-bearing loan would be converted into a loan with interest at a rate set by the Secretary.

If the American fisherman were found to be at fault because of negligent or fraudulent activity, the Secretary would require the immediate repayment of the loan at an interest rate he deemed appropriate and the fisherman would be subject to criminal prosecution. Government responsibility would be retroactive to January 1, 1972, since most of the serious damage done to American fishermen's gear has been done during the past 3 years.

Mr. President, I would like to add that this legislation is not only simple in its intent and construction. But if enacted, it could be administered in a straightforward and relatively inexpensive manner. With the enactment of this amendment, I would not, for example, foresee the need to expand the bureaucracy or to set up any new administrative organizations to handle claims filed by U.S. fishermen against foreign vessels. I believe the National Marine Fisheries Service, as presently structured, could handle any increase in the demands made upon it as a result of this legislation.

Furthermore, the $4 million currently in the fisheries loan fund should prove to be more than enough money to take care of any claims filed pursuant to this legislation. So it will not be necessary for Congress to authorize any new moneys with the passage of this bill.

Mr. President, as things stand today, most American fishermen feel that filing claims is hardly worth the time, money, and trouble since there is such a high probability that pursuit of the existent claims process will prove fruitless. It is imperative that the Federal Government initiate new measures to reform the claims process. The amendment I am offering today—by providing the individual fisherman with the capital he needs to get back in business while the Government negotiates with the responsible foreign governments for reimbursement—provides, I feel, a reasonable approach to this problem. I urge my colleagues to support this legislation.

Mr. PASTORE. Mr. President, I applaud the Senator from Maine for this amendment, and I would hope that he would make me a cosponsor.

In support of this amendment, I have in my office now several cases of fishermen in my State whose gear has been damaged, whose boats have been damaged, whose nets have been damaged, and they have to file a claim with a foreign government.

The Russians just settled two cases in Rhode Island, and it took 2 years to do it. By that time the fishermen were almost ready to go out of business.

I have another case in my office of a fisherman who has made a claim against the Spaniards and the Russians or Japanese.

The big question here is that we pay off when foreign governments seize our vessels down along the coast of South America, and I think the same ought to be done up here, too.

Mr. MUSKIE. I thank the Senator from Rhode Island for his point.

Mr. MAGNUSON. As the Senator from Rhode Island pointed out, there is ample precedent for this. We have helped our fishermen like this for years with the squabbles they have had off the western coast of South America. It just means that fishermen who are damaged, little, independent people, and often a family operation, cannot wait very long to get paid. This has worked out fine. The Government has paid the claim. The Government utilmately gets the money back sooner or later, but big government can wait longer than a little fisherman.

The Senator from Alaska and I would be glad to accept the amendment.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. STEVENS. Mr. President, I am pleased to cosponsor the amendment.

We have had some very serious problems in my area. I recall once when we had the new pride of the Alaskan fishing fleet on the grounds for the first time, the *Viking King*. A foreign trawler went across its trawl line and actually stripped the whole trawl gear out of this brand new vessel. It was laid up for the whole season and lost the entire season.

I believe that the great problem of putting one small outfit in a position of negotiating with a foreign government, and that is really what occurs on our fishing grounds, can only be met through the amendment that we have all cosponsored with the Senator from Maine.

Mr. President, I think this amendment is a very good addition to this bill. I hope in due time the whole Congress will recognize the validity of this approach.

Mr. PASTORE. Will the Senator yield for a further observation?

Mr. MUSKIE. Yes.

Mr. PASTORE. The State Department is opposed to the pending bill, but the State Department has no qualms at all in seeing to it that when our fishermen are arrested along the South American coast, and they are fined, we reimburse them for the fine. We deduct it from the foreign aid we give them, and we pay them the balance. Then if their boats or catches are confiscated we try to do something for them.

I am saying if that is the position that we are going to be in in South America, it is about time we began to do something for our fishermen who are damaged up around New England.

Mr. MUSKIE. I thank the Senator from Rhode Island for his comments.

Mr. COTTON. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. COTTON. Mr. President, I would like to have my name added as a cosponsor of this amendment.

Mr. MUSKIE. Mr. President, I ask that both the Senator from Rhode Island and the Senator from New Hampshire be added as cosponsors.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. MUSKIE. I yield to Senator PACKWOOD, who introduced his own bill. With Senator KENNEDY, we combined our efforts to produce this amendment. I express my appreciation.

Mr. PACKWOOD. Mr. President, I can echo the same experiences that the Senator from Maine and others have had. Within the last 6 or 8 months off Oregon we have had Russian trawlers going right over the nets of our fishing boats.

We have had the Soviet-United States Fishery Claims Board, which has failed to provide compensation to the vast majority of those American fishermen who have sustained damages. We have one claim of two fishermen of Oregon over a year old, with nothing done, no finding of fault or lack of fault, nothing.

If that is the situation we are going to put our fishermen in, it seems to me it is incumbent on the American Government to take some responsibility for these claims and let them argue as to whether whoever happens to run over these nets is liable.

I am delighted to join with the Senator from Maine and others in cosponsoring this amendment. I regard it as vital to the protection of our fishermen's interests.

Mr. President, I am extremely pleased to be able to join with Senators MUSKIE, MAGNUSON, KENNEDY, HATFIELD, and WEICKER in sponsoring this amendment to S. 1988, the Emergency Marine Fisheries Protection Act of 1974. Our amendment provides a more speedy and equitable procedure for the recovery of claims brought by American commercial fishermen who have had their vessels or gear damaged by foreign fishermen.

Last summer I met with four black cod fishermen from Astoria, Oreg., who provide a vivid example of why this legislation is so desperately needed. During the last 18 months each of these four men has lost thousands of dollars of fishing gear when Russian vessels tore out their buoys and pots.

Their situation is not unique in Oregon. In February 1974 I conducted hearings in Coos Bay, Oreg., and received testimony from other fishermen complaining about harassment, intimidation, and damage to their vessels or gear by foreign fishing fleets.

Unfortunately, Oregon fishermen have found it virtually impossible to be reimbursed for their claims. The problem finds its root in bureaucratic redtape, diplomatic finagling, and in the end the burden is borne by the fishermen. And, Mr. President, this is one net our fishermen cannot handle; it is a net of overbearing circumstances which I believe our fishermen should not have to handle.

I am sure that other coastal Senators will attest to the fact that their fishermen have similar concerns. On the east coast and on the west coast, off Coos Bay, Oreg., and Boothbay Harbor, Maine, this Nation's commercial fishermen have been mauled by foreign fishing fleets that deplete our marine resources and then, if that were not enough, deliver the knockout punch of gutting buoys and pots, leaving fishing gear a mangled mess.

I believe those Americans who fish off our shores, who bend their backs and fight the sea, need a helping hand when the fight of the sea switches from pursuing fish to being pursued by foreign fleets.

What we propose would simply and efficiently provide loans in the amount equal to the replacement value of the damaged or destroyed property owned by the complainant. If the Secretary of Commerce determines the destruction was caused by vessels of a foreign nation, he is authorized to cancel repayment of the loan. If the damage involved was not incurred by actions of a foreign vessel, then the owner will be required to repay the loan at a rate of interest determined appropriate by the Secretary of Commerce.

Finally, Mr. President, this amendment was conceived in order to put the fisherman back into the business of fishing and out of channels which flow with red tape and international stalemate. It is the U.S. Government which should deal with those nations responsible for the damage done by their fleets.

The fisherman should be allowed to do what he knows best and what the nation needs most: his fishing abilities.

Loans authorized by this amendment would take the fisherman out of hock and put him back at the helm where he belongs. The Senate in passing this amendment can restore that order.

Mr. MUSKIE. Mr. President, I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to table was agreed to.

LIMITATION OF DEBATE ON NOMINATION OF FRANK G. ZARB

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that there be not to exceed 1 hour debate on the nomination of Mr. Frank G. Zarb.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the discussion on the nomination follow the disposition of the nomination of Mr. Conant.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent, as in executive session, that my previous consent orders with respect to Mr. Zarb be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EMERGENCY MARINE FISHERIES ACT OF 1974

The Senate continued with the consideration of the bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

Mr. STEVENS. Mr. President, I yield myself such time as I may need.

My State has more than half of the coastline of the United States and is the great protein warehouse of this country, if not of the world. We have suffered too long from the marauding invaders off our coast who at one time I described as being people who used vacuum cleaners on the ocean flor, through their trawler gear. Now I think it would be more apt and timely to say that they are really strip-mining the oceans, and they are doing it in a way that is absolutely beyond repair. We have already lost 12 species which are now in the situation of being threatened with extinction as a result of the activities of foreign fishing fleets off our coasts.

We seek here a very direct approach. We seek to temporarily extend our fishing zones 200 miles, in order to declare conservation principles that all civilized nations should adhere to, to be applicable to the areas off our coasts. It is a temporary solution.

This approach is based upon the concept that all of us who support this bill, I believe, would rather have a multilateral, firm, permanent solution accepted by the world by consensus to protect the fisheries resources of the oceans. But it seems impossible to get the Law of the Sea Conference to recognize that no time is left for the fisheries—that there is no time to debate the navigation problem, the problem of the seabed, the width of straits. All those questions, incidentally, will not be affected by time. Only the future of the fisheries of the oceans of the world will be affected by time, and time is running out for those fisheries, so far as I am concerned.

I have been privileged to be sent to each of the Law of the Sea meetings to date, since I have been in the Senate, and I share the feelings of our chairman, the great Senator from Washington (Mr. MAGNUSON), in terms of the progress that has not been made. We have yet to separate the one issue that could be solved by the world now; the only issue, as I said, that will be affected by the passage of time—that is the issue of fisheries protection.

I do not see how we can do other than send a very strong message to the Law of the Sea negotiators in Geneva. That message should be that we are willing to go back again in April; that we are willing once again to try to convince the nations of the world that they must stop the vacuum cleaner mehods of the foreign fishing fleets not only off our coasts but also off the other coastlines of the world; that if they fail to do this next year, that this Congress will have no alernative but to act unilateraly, not on an interim basis, but permanently to extend our jurisdiction to 200 miles and to declare stiff penalties on anyone who violates the sound conservation principles that the world has now come to recognize.

I had hoped we would be able to get this bill passed by Congress this year. We know now that we cannot. We now know that in the closing days of Congress, it will not pass the other body. But I urge the Members of the Senate to support this bill, to send that strong warning and message to the Law of the Sea negotiators: tell them we are losing patience with this group of international negotiators who seem to spend more time on procedure than they do on the substance of the problems before them.

I mentioned to the representatives at Caracas that we had a habit in the Senate that if we wanted to record our long speeches, we would do what I am going to do now, and that is to put the speeches in the RECORD and try to summarize our meaning. But they went through almost 6 weeks in Caracas, with each representative of each country reading almost a 2-hour or 3-hour speech. As a consequence, they achieved nothing. They were no further along when they left Caracas than when they left Geneva 2 years earlier.

I hope that those negotiators will know after today that we cannot await another session such as that and that they should produce a firm outcome, at least on the fisheries issue, in Geneva, when they meet there again.

Mr. President, it is a pleasure to rise today in support of S. 1988, the Emergency Marine Fisheries Protection Act of 1974. For my State, Alaska, and for other U.S. coastal fisheries States this is the most important fisheries legislation to come before the Senate in many years.

After 15 hearings here and in the field the Commerce Committee overwhelmingly reported this bill favorably. The Armed Services Committee held three hearings and last week also reported it favorably. The Foreign Relations Committee earlier reported it by a narrow 9–8 adverse vote.

As Senators know, S. 1988, sometimes called the 200-mile bill, was introduced as a deterrent to the onslaught of foreign fishing which has built-up off our shores since the end of World War II. Having exhausted their own fish resources, several foreign nations, using the most ad-

vanced vessels and gear, have converged on waters near the coasts of the United States and are depleting our fish one species after another. These invaders systematically strip an area of its fish, without regard to conservation practices which could guarantee a lasting supply of fish resources for the tables of the world. Then they proceed to another area to do the same thing. Our hearings have established that the emergency is genuine, and that extension of our fisheries jurisdiction to 200 miles would afford the protection necessary to sustain our coastal species.

Before summarizing the provisions of the bill, I would like to address some of the misunderstandings and disagreements it has aroused.

The administration, at the behest of the State Department, opposes the bill, telling us that such action in Congress upsets the delicate balance of our law of the Sea negotiations. I cannot agree. In fact, I am convinced that the serious fisheries problems brought out in our extensive public hearings on S. 1988 reaffirmed and unified the outrage of the people of this Nation over the foreign fishing issue, and strengthened the position of our negotiators. One thing not widely known is that this legislation does not differ in concept from the position laid before the Law of the Sea Conference by the United States last summer in Caracas, Venezuela. What the State Department objects to is not the concept of S. 1988, but the fact that it is being sought unilaterally, legislatively, and immediately, rather than internationally, diplomatically, and interminably.

The Defense Department has joined State in opposing this bill, asserting its long-held, inflexible position that our fisheries claim could lead to armed confrontations and would trigger retaliatory larger claims by foreign governments—resulting in the eviction of our nuclear deterrent forces from the coastal waterways and straits of the world. We may be assured that the members of the Armed Services Committee, the majority of whom favor S. 1988, gave full consideration to its strategic military implications. In fact their committee report stated the belief that passage of S. 1988 would not significantly affect the mobility and survivability of U.S. forces.

Moreover, the committee reported that passage of S. 1988 would give the Secretary of State sufficient leverage to work out satisfactory fishery arrangements with foreign nations without resort to armed confrontations. Many of my colleagues will recall that similar legislation, adding a 9-mile U.S. fisheries contiguous zone, passed the Congress and became law in 1966, and that there was neither retaliatory territorial expansion nor other negative reaction by foreign governments.

Mr. President, my answer to both State and Defense is that S. 1988 would apply to fishing only, and, true to its name, it is an interim fisheries zone extension and management act which would cease to exist as soon as international fisheries conservation measures are consummated. It is doubtful that foreign nations will sacrifice their other important diplomatic goals by overreacting to our emergency move to sustain a renewable resource so necessary to a protein hungry world. In this regard I emphasize that S. 1988 requires that we allow foreign fishermen to harvest whatever balance of the sustainable yield off our coasts is not caught by U.S. fishermen.

I do want to make clear my conviction that comprehensive law governing the oceans, including fisheries, is an important international objective. As an adviser to the U.S. Law of the Sea delegation, I attended preparatory sessions last year in Geneva and New York, and the so-called "substantive" sessions this summer in Caracas. Regrettably, this experience convinces me the comprehensive treaty being pursued is at least 2 years away. The fact is, there are nearly 150 nations having various economic, political, and social characteristics considering an agenda of some 80 issues. Fisheries, unlike the others, simply cannot wait for resolution of so many problems.

A common argument against a 200-mile limit is that enforcement would be difficult. I believe enforcement under this concept would be immeasurably less complicated than under the present myriad of treaties establishing various sizes and shapes of zones to protect various species of fish.

I am disappointed that some of those who oppose S. 1988 have spread word among the salmon fishermen of Alaska and other west coast States that the legislation would lead to a retaliatory increase in high seas salmon fishing by other nations, mainly the Japanese. Actually, S. 1988 provides for protection of anadromous species such as salmon, as far as they migrate—which, indeed, exceeds 200 miles offshore. Even if this were not a fundamental provision of the bill, we could assert powerful leverage on Japan by conditioning the continuation of its vitally important pollack fishery within our 200-mile zone upon total abandonment of its much smaller high seas salmon effort.

Briefly, I shall now outline the major provisions of the bill:

Section 4 provides that the United States would, on an interim basis, exercise exclusive fishery management responsibility and authority in a zone extending to a total of 200 miles offshore. In the case of anadromous fish this authority would be extended to the full limits of their migratory range. In no case would this zone extend within the territorial waters or fisheries zones of other nations. Highly migratory species such as tuna are excluded from the provisions of this section in order to preserve the existing treaties. The vast migratory range of these fish necessitates international agreement, because controls by a single nation would be inconsequential in managing the species. This position is shared by the U.S. fisheries article being forwarded at the Law of the Sea Conference.

Section 5 provides that traditional foreign fishing may be allowed only to the extent that the optimum sustainable yield cannot be harvested by U.S. citizens.

Section 6 would establish a Marine Fisheries Management Council which would be required to submit to Congress within 2 years the elements of a marine fisheries management system to preserve and protect fish with the following objectives: enhancement of the total national and world food supply; improvement of the economic well-being of our commercial fishermen; maximum feasible utilization of methods, practices and techniques that are optimal in terms of efficiency, protection of the ecosystem of which fish are a part, and conservation of stocks and species.

Section 7 would require the Secretary of State to negotiate new treaties and renegotiate existing ones to achieve consistency with this act.

Section 8 would provide that this act would neither extend nor diminish the jurisdiction of any State over any natural resources beneath and in the waters beyond the territorial sea of the United States.

Section 9 specifies prohibitions under the act, including violations of international fishery agreements, and provides for civil penalties not to exceed $25,000 for each day of violation; criminal penalties not to exceed $50,000 fine and/or 1 year imprisonment; and civil forfeiture of any fish or fishing gear used, intended for use, or acquired in violation of this section.

Section 10 would empower the Secretary of Commerce and the Coast Guard to enforce provisions of the act; to board and inspect vessels; to arrest suspected violators; execute processes issued by the court, and sieze fish and fishing gear found aboard any fishing vessel or support vessel engaged in any activity prohibited by this act. U.S. district courts are vested exclusive jurisdiction over all cases arising under this act.

Section 11 provides that the management authority under section 4 of the act become effective 90 days after enactment and that all other provisions become effective on the date of enactment. The provisions of the act would expire on the date that the Law of the Sea treaty or other comprehensive fish management and conservation treaties to which the United States is party come into force.

Section 12 authorizes appropriations of not to exceed $5,000,000 to the Secretary of Commerce and $13,000,000 to the Secretary of the Department in which the Coast Guard is operating, for each of fiscal years 1975, 1976, and 1977.

Mr. President, S. 1988 would establish a system for conserving our fish stocks while allowing a sustained harvest of desperately needed animal protein for the people of the United States and of the world. As the title indicates, this is "emergency" legislation. I respectfully urge its passage.

Mr. President, I call up my amendment which is at the desk.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 16, line 13, insert the following: "The National Oceanic and Atmospheric Administration shall take steps to verify the authenticity of the foreign catch statistics and any other relevant data furnished for the purpose of this paragraph, including placing observers aboard as necessary during any fishing operations that may be authorized for foreign fishing vessels pursuant to this Act.".

Mr. STEVENS. Mr. President, I have called this amendment to the attention of our chairman and the manager of the bill.

This amendment would specifically delineate the procedure to be established under section 5(d) of S. 1988. That section requires that the best available scientific information, including data compiled by a foreign nation, be utilized in determining the allowable level of foreign fishing which may be authorized in an area where U.S. fishermen are not harvesting the full sustainable yield. Specifically, my amendment would authorize the National Oceanic and Atmospheric Administration to take steps to verify the authenticity of data provided by foreign governments, including the placement of observers on foreign fishing vessels.

In the case of U.S. fishing vessels, catch and catch records are available for inspection and verification by United States and State fishery agents when the vessels return to their home ports to discharge and sell their catch. Our Government is now spending a great deal of money for this purpose, to verify these catch records.

Foreign vessels, on the other hand, do not land their catches in U.S. ports, thus removing any opportunity for U.S. observers to inspect their landings and verify the species and catch records of their fishing operations. Under these circumstances, our Government has no way of knowing the extent of their fishing operations and the amount of their catch by species, or otherwise, except through such data as the foreign governments choose to provide.

It must be recognized that the catch data, and other information which foreign governments will be furnishing pursuant to this section, will be intended to support their cases for the continuing operations of their fishing fleets.

I point out that we do not unilaterally terminate totally their fishing rights, but we extend to them a right to continue fishing under certain circumstances and provided they stay within the available catch so far as the sustained yield concept is concerned.

For this reason, it is highly inappropriate and could be highly misleading to take, at face value, whatever statistical and other information they may put forward for this purpose.

Mr. President, I urge my good friend, the manager of the bill, to add this amendment to this bill.

Mr. MAGNUSON. Mr. President, we have discussed this amendment. I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I do not know of anyone else who desires time.

Mr. TUNNEY. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. MAGNUSON. I yield the Senator 2 minutes. That is enough for his side of the story. [Laughter]

Mr. TUNNEY. Mr. President, I agree with the Senator from Alaska that there is no point in making long speeches on this point; we may as well put our statements in the RECORD. However, I do feel that it is important to the Senator from California that I reflect what the view is of a significant segment of the fishing industry in my State.

As some of my colleagues know, S. 1988 would have enormous impact upon the tuna fishermen in my State. It is also anticipated by some of the sports fishermen in the southern part of the State that it would have an adverse impact on them, particularly if Mexico should declare a territorial jurisdiction over 200 miles of offshore water in retaliation to the decision of the United States to declare a 200-mile territorial jurisdiction over our coastal waters.

I did hold hearings in California. I must say that there is a division of opinion. The coastal fishermen in northern California are supportive of the legislation of the Senator from Washington. They feel that they have to protect their livelihood from the trawlers from the Soviet Union and Japan. They feel very much the way the Senator from Washington expressed his viewpoint, that it is absolutely important to conserve our coastal fisheries.

On the other hand, the fishermen in the central and southern parts of my State, who fish for tuna, fear that if we pass this legislation, other coastal States in Central and Latin America will do the same and will make it impossible for them to catch tuna in the future the way they have in the past. This would adversely effect a very important part of the protein diet which is available to Americans as a result of these fishing crews going down and catching tuna which would otherwise be unavailable.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate Chamber, please?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from California will proceed.

Mr. TUNNEY. I also wish to point out, Mr. President, that in my view, although I can totally understand the desire on the part of the Senator from Washington and of those people who support him in his desire to protect their fisheries, and their disgust at the fact that there has not been an international agreement to protect our fisheries but it seems to me that we should wait until the Geneva meetings are concluded this summer before we take this unilateral action. I am totally aware of the fact that this legislation becomes inoperative if there is a multilateral agreement reached during the conference to be held in Geneva in 1975.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. TUNNEY. May I have just 1 more minute?

Mr. STEVENS. Mr. President, I yield 1 more minute to the Senator from California.

Mr. TUNNEY. I suggest that we listen to the Department of State on this issue and that we listen to the Department of Defense and recognize that it would be best to wait until the various nations of the world get together and have a chance once more to try to hammer out what has to be a most difficult agreement. We have such a conflict between coastal States and interior States, and differences of opinion between developing States and developed States as to what the law of the seas should be—not only as it relates to coastal waters, but the deep sea waters as well; as it relates to the riches that apparently exist in the coastal waters, the subsoils of the coastal waters, as well as in the deep sea.

Mr. President, there is no one in the Senate who has worked harder on this legislation than the distinguished chairman of the Commerce Committee. Furthermore his expertise in this area is extensive. However, in this particular case, I must respectfully diverge from the chairman's position.

S. 1988, Mr. President, would have enormous impact on the State of California. California is the base for one of the largest coastal, distant water, and sport fishing fleets in the world.

Extensive consultation with representatives of these groups and two days of hearings in California have convinced me of the need to oppose S. 1988 for the following six reasons:

First, S. 1988 I believe may violate international law.

Second, S. 1988 could endanger our global defense interests.

Third, S. 1988 will seriously undermine the Law of the Sea Conference and increase the odds of its ultimate dissolution and failure.

Fourth, this legislation falls to protect our coastal fish stocks and by threatening to destroy the Law of the Sea Conference may end the hope for meaningful protection of our coastal fisheries in the future.

Fifth, it threatens the economic viability of our distant water fishing fleets by increasing the likelihood of harassment and reprisals, by foreign nations, which have already illegally seized more than 145 of our fishing boats on the high seas in the last 7 years.

Finally this legislation's conservation provisions are inadequate and therefore fail to protect the long-term interests of the American consumer.

In order to place this proposed legislation in historical context it must be remembered that the United States has

consistently protested the extension by other nations of fisheries jurisdiction beyond the 12-mile limit as a violation of international law.

When a few countries in Latin America unilaterally extended their jurisdiction to 200 miles there was nearly universal protest in the Senate and the Fisherman's Protection Act was passed in order to assist our fishermen to resist what was described as a brazen breach of international law.

For the Senate to sanction an abrupt and unilateral extension of our fishing jurisdiction to 200 miles off our coast would be seen by the rest of the world as a precipitous reversal of policy. Secretary of State Kissinger, underlining the gravity of this proposed action, has stated in a letter to Senator FULBRIGHT that—

Passage of S. 1988 would be seriously harmful to our foreign relations and any effort to enforce a unilaterally established 200 mile fisheries zone against non-consenting nations would be likely to lead to confrontations . . . and would encourage a wave of claims by others which would be detrimental to our overall oceans interests in naval mobility and the movement of energy supplies.

The proponents of S. 1988 have claimed that as this legislation relates solely to fishing it will not affect other aspects of oceans affairs. The State Department however has stated that it is clearly inconsistent with the 1958 Convention on the High Seas to which the United States and 45 other nations are parties.

They note that although S. 1988 breaches this convention in the area of freedom of fishing, there is no reason to believe that other nations will not use our breach as an excuse to abrogate the 1953 convention in the sensitive areas of freedom of overflights and freedom of navigation. Deputy Secretary of Defense Clement has underlined the magnitude of this threat by stating:

If the United States, by unilateral act, abrogates one identified freedom, we face the unhappy prospect that other nations may claim the right unilaterally to abrogate other identified freedoms, including the freedoms of navigation and overflight . . . Military mobility on and over the high seas is dependent to a significant degree on the maintenance of the freedom of the seas. These freedoms sanction and protect the activities of our forces. Reduced international waters and closed straits, therefore threaten both the survivability and utility of our deterrent. In this connection, it should be noted that over 40% of the world's oceans lie within 200 miles of some nation's coast and that virtually the entire operating areas of the United States 6th and 7th Fleets lie within such waters.

In answer to these charges it is being claimed that S. 1988 is merely a "temporary" expedient, and that by showing our determination it will spur action in the Law of the Seas Conference.

I believe that the opposite result is more probable. If the Senate passes this legislation, a number of nations will probably use our action as an excuse to put forward their own extended claims. Soon these conflicting claims, unsanctioned by international law, will lead to increased worldwide friction and international incidents. The so-called cod war precipitated by Iceland's extension of its fishing zone—not to 200 miles but merely 50 miles off its coasts—has given the world stark warning of the type of gunboat diplomacy that can be elicited by unilateralism.

In such an environment of accelerating acrimony it is my fear that whatever hope the Law of the Seas Conference has may be extinguished.

At the same time a unilateral extension under S. 1988 could come under attack as a breach of international law and practice. The International Court of Justice has just recently held that Iceland's unilateral claims were inconsistent with the fishing rights of the United Kingdom and the Federal Republic of Germany. A unilateral claim by the United States will clearly lead a number of nations to try to bring the United States before the International Court of Justice.

The U.S. Government will then be faced with an extremely agonizing decision—either we will refuse the Court's jurisdiction claiming that the unilateral accretion of national control over a 200-mile fishing zone which comprises 2,582,000 nautical square miles is strictly a domestic matter—or we will accept the International Court of Justice's jurisdiction, which will threaten the immediate outlawing of our 200-mile fishing zone as a violation of international law.

In other words we are heading toward a situation in which passage of S. 1988 may threaten the prospects of progress at the Law of the Sea Conference, while S. 1988 itself may be found to be in contravention of international law.

We should remember that the alternative to multinational agreements concerning the Law of the Sea could be a crazy quilt of unilateral claims continually being propounded with the final arbiter—raw force.

That force may be required should not be ignored.

There is no reason to believe, for example, that the Russians, Japanese, and other major nations that fish off our coast will acquiesce meekly to the licensing requirements of S. 1988. Such payments would be a de facto acceptance of our unilateral claims. Therefore, it is likely that the United States would face stiff opposition to collection of these fees.

Foreign opposition to collection of license fees is likely to put severe strains on the enforcement mechanisms contained in S. 1988. The Coast Guard which would have the primary enforcement responsibility under S. 1988 has written the Commerce Committee that if our fishing jurisdiction is extended to a 200-mile zone the Coast Guard will be spread "very, very thinly" and "this is likely to be true without regard to the regulations imposed on foreign fishing vessels, probability of violation, et cetera." The Coast Guard further has written that even under their minimum plans for surveillance of an extended fisheries zone this would require acquisition costs of $63.2 million to increase their operating facilities to "6 high endurance cutters, 6 long range search aircraft, 4 medium range search aircraft and 10 shipboard helicopters" and that reactivation time would extend from "6 to 11 months." Furthermore, this level of surveillance would require further increase in the Coast Guard's operating funds of $47.2 million a year.

In light of the fact that S. 1988 authorizes increased funding for enforcement at a much lower level—$13 million for each of the fiscal years 1975, 1976, and 1977. There is reason for concern as to whether S. 1988 will afford significantly increased protection of our coastal fishermen.

At the same time our distant water fishermen would be jeopardized. In hearings I chaired in California, it was pointed out that the tuna industry is dependent on multinational conservation agreements. A proliferation of 200-mile exclusive fishing zones worldwide would conflict with the maintenance and extension of such multinational agreements. Already Ecuador, which was a member of an international tuna management regime pulled out after unilaterally proclaiming an exclusive 200-mile limit. Peru simply has refused to join such tuna management agreements on the ground that it would derogate its 200-mile exclusive fishing zone. There is reason to believe that Japan and other parties to tuna agreements may face internal political pressure to abrogate their participation if we extend our fishing zone to 200 miles. The result would be chaos and confrontation.

Such a result could devastate the American tuna industry and its 28,000 employees and a payroll of over $200 million last year.

American consumers also would be hurt. They bought $1 billion worth of canned tuna in 1973, two-thirds of U.S. grocery shoppers purchase tuna on a regular monthly basis. The market is presently growing at a rate of 6 percent annually. If the international tuna agreements are jeopardized, we will see a massive escalation in the cost of canned tuna. This could add hundreds of millions of dollars to our food bill and weaken our balance of trade posture.

Another serious problem with this legislation is that the proposed mechanism for a conservation program for our Nation's coastal fisheries is not sufficiently stringent. Although the proponents of S. 1988 maintain that our coastal fishing stocks have been dangerously depleted, the legislation, while attempting to limit foreign fishing depredations, fails to set up any immediate enforcement procedures against overfishing of our coastal fishing stocks by our own fishermen. Instead it sets up a so-called fisheries management council to propose a coastal management regime. Under S. 1988, it could take as long as 2 years before these proposals are promulgated. If our fish stocks are so seriously threatened, such a hiatus could be seriously detrimental.

It is essential that any legislation to regulate coastal fishing focus on the conservation of coastal fish stocks. There appear to be superior alternatives to S. 1988 which would allow for more satisfactory, evenhanded, and scientifically based conservation programs.

The 1958 Geneva Convention on Fishing and Conservation of the High Seas, of which we are a signatory, for example, contains article VII which allows a na-

tion to conserve coastal fisheries. This article could apply not only to fish up to 200 miles off our shore, but to coastal fish that travel even further off our coasts.

Also, regulations carried out in accordance with the 1958 Geneva Convention would have the force of international practice behind them, since the convention has been signed by 33 nations. Furthermore, any actions and regulations under the convention must be based on solid scientific evidence and must regulate both domestic and foreign fishermen.

It seems to me that if we decide to take immediate action in regard to coastal fisheries the article VII approach is superior to S. 1988.

Coastal fishery conservation which maintains our renewable fishery resources at a level of maximum sustainable yield is in the best interest of domestic and foreign fishermen alike. It is in the best interest of thousands employed in the industry, and in the best interest of consumers who want a plentiful supply of seafoods at reasonable prices.

Mr. President, Chairman MAGNUSON and the other members of the Commerce Committee have worked hard on this legislation. Nonetheless, I believe S. 1988, as presently constituted, cannot solve our coastal fishing problems.

Mr. STEVENS. Mr. President, I yield 4 minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise with considerable reluctance to speak in opposition to this measure because of my great admiration and great love for our chairman, the Senator from Washington.

Hawaii is a State surrounded by water, and, therefore, obviously, we should be concerned about fishing. This morning, I should like to address myself not to fishing but to other aspects involved in this measure.

I am concerned as to how this measure will affect our national security. The Department of Defense has pointed out that if we should decide to adopt this measure, it will open the floodgates for other nations to adopt similar legislation, and, if this should happen, the operational areas of our Sixth and Seventh Fleets would be most seriously curtailed. For example, movement in the Caribbean would be, to some extent, halted. Movement in the Mediterranean would be made extremely difficult and movement in the China Sea, the Japan Sea and the Philippine Sea would be made almost impossible.

Mr. President, there is another point. If we should adopt this measure, then, if enforcement is necessary, we shall have to increase our coastal forces. Our Coast Guard would need additional equipment and manpower. We have no idea as to what the cost would be, but I assume that it would be in the many millions.

Finally, Mr. President, many experts have suggested that this measure would be in violation of the 1958 Convention on the High Seas. Some nations will just refuse to recognize this unilateral action on the part of the United States and will make it a matter of their sovereignty to intrude upon the so-called 200-mile sovereignty of the United States. We shall have confrontations.

I recall very vividly, as do my colleagues here, the extension of 50 miles that led Iceland into an unfortunate cod war with Great Britain. I should hate to see a salmon war or a tuna war being conducted on the west coast of the United States.

So, Mr. President, much as I join my chairman in making every effort to assist our fisheries and our fishing industry, I find that there are other elements of this measure which lead me to oppose it.

I thank the Senator very much.

Mr. STEVENS. Mr. President, I am happy to yield a minute to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my colleagues for a couple of minutes.

I am rather surprised at the position of some of our colleagues, because I know we have been all working on this particular measure. I understand that the tuna fishermen are quite concerned. My distinguished friend from Alaska and I attended the Law of the Sea Conference representing those tuna fishermen. We have their interest at heart. We have the national security interest at heart, and we have the international interest at heart.

The point is, Mr. President, that everyone cries for leadership, but there is no leadership. When we try to lead and fix a point to attain, then we want to adopt the age old political approach of when in doubt do nothing, and stay in doubt all the time.

What is the alternative? Are we going to continue to meet and eat and meet and eat? I ask the Senators, have they ever been to these blooming things? When will they ever end? Does anyone really contemplate an international treaty agreement, with all the various ramifications? By the time we get the economic zone idea settled, then we get the national defense question.

By the time you think you have got that fit into a packaged agreement, then there squirts out the tuna problem, and about the time you think you might whip that, then the archipelago states come in; then all the other interests come in, and all the way down the line.

I think we have given it a pretty good try to bring about a consensus. I think it was our own Secretary of State—I should say our Ambassador, not the Secretary of State, who at one time worked as Assistant Secretary, John Stevenson—who announced at Caracas that the United States accepts in principle the 200-mile economic zone. I am told that at Caracas that the United States accepts in principle the 200-mile economic zone. I am told that at Caracas that was tentatively approved by a substantial majority.

I am inclined to think that is as far as it is ever going to reach. Now the distinguished Senator from Washington comes along and says, "Having reached that much." Mr. President, government is the art of the possible, not the impossible. In another 10 years, that war in Iceland will repeat itself in Peru, and now northern Ecuador is beginning to be heard.

So the very argument employed by my distinguished friend from Hawaii about the fishing wars is exactly what we are trying to avoid.

The world is becoming smaller each day. We are running out of time. It would be delightful if we could all sit around a table and meet and eat in agreement, but lawyers have made careers out of this blooming problem of the law of the sea, and I get the impression when I attend one of these things that the worst thing that could happen would be if they do agree. Everyone would come along and pick out the next place, and say Geneva has good eating places and Vienna has good eating places, and on down the line.

But the problem of Iceland is there, and the danger of war is imminent. I wanted to put our fisheries within the 200-mile zone, but I did not want to confuse the leadership of our distinguished chairman, the Senator from Washington. He has brought it to a head. I think it should be brought to a head, and I think it should be passed by the Senate. If we can adopt this economic zone of 200 miles, then, working from that point, which is generally agreed upon and which would be followed by a majority of the nation states, we can work out where these warships can go.

The very crowd that worries about warships traveling around and being around and in and out and everything else is the same crowd that does not want any warships in the Indian Ocean. They cannot have it both ways, Mr. President. They say, "Oh, we can't move around if you do this." Then we will have a military construction appropriation bill with the Diego Garcia issue, and that same crowd that is running around now will say, "Oh, don't go into the Indian Ocean." The whole ocean is much less than the 200-mile economic zone.

We cannot have it both ways. We have to exercise the leadership here in Congress that is lacking in the administration; and that is what the Senator from Washington is attempting to do this morning.

Mr. PACKWOOD. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I am glad to yield.

Mr. PACKWOOD. Is there anything in this bill that has anything in any way to do with legal territorial waters?

Mr. STEVENS. No, this is an interim extension of a conservation zone for fisheries protection and management.

Mr. PACKWOOD. It has nothing to do with freedom of navigation?

Mr. STEVENS. No, it does not. It merely manages the water column and the access to the creatures of the sea within that water column.

Mr. PACKWOOD. It has nothing to do with national security?

Mr. STEVENS. No, it has no impact on national security considerations, and does not change the current law of the sea as far as that is concerned.

Mr. MAGNUSON. It does have a little bit to do with national security in reverse.

Mr. STEVENS. Yes, but the Senator is talking about the military.

Mr. PACKWOOD. I am talking about the military.

Mr. MAGNUSON. It seems to me we would feel better if within the 200 miles our own ships operated instead of Russian ships off the coast of Oregon and Washington, with radar equipment, charting the seas along the coast.

Mr. PACKWOOD. The point I am making is that there is nothing to prevent a foreign ship from navigating within 200 miles.

Mr. MAGNUSON. No, not at all.

Mr. PACKWOOD. The argument is made by the Defense Department and the State Department that we are jeopardizing our national security, and that argument is baloney. As the Senator has said, we may want to address ourselves to that some day, and maybe have a conference on it some day, but this bill has nothing to do with that. This bill is to stop the pillage of our fishing outside the 12-mile limit, and in some cases inside the 12-mile limit.

If we do nothing, there are going to be Russian ships, Polish ships, and Chinese ships next year, sneaking inside the 12-mile limit in a fog.

When people ask, "If you extend this outside the 12-mile limit, how are you going to enforce it," my answer is, "It is easier, with Coast Guard cutters or a plane, to catch someone penetrating 20 miles inside a 200-mile zone than 1 mile inside the 12-mile zone."

If we want to save these fish, they have to be protected, or there will be no fish left for anybody. It is fine to speak about negotiating treaties, but that does not do us any good if we do not have a treaty covering every species. We make a treaty for one kind of fish, and we find the next year they are taking a different kind of fish.

So I hope those from the coastal States and the inland States will recognize the critical necessity. All we are asking is that the fish be protected and preserved, and we are not jeopardizing national security, freedom of the seas, or anything else by the passage of this bill.

Mr. MAGNUSON. No, not at all. The Department of Defense sent up the chief of staff—what is his name?

Mr. PACKWOOD. General Brown?

Mr. MAGNUSON. Yes. —to testify against the fishing bill, and he came, but the Armed Services Committee rejected his arguments.

There was a letter circulating this morning that I cannot understand, some of these arguments. For example, it says "It would increase the danger of gunboat wars."

Mr. PACKWOOD. Is that the letter signed by Senator TOWER?

Mr. MAGNUSON. Yes, Senator TOWER and Senator CRANSTON. "Increase the danger of gunboat wars." As a matter of fact, without having a 200-mile limit, we will have more than gunboat wars; we will have real problems with congestion of ships off our coasts, and the situation is getting to the point where I am afraid some of our people will take guns and take the situation into their own hands.

Mr. PACKWOOD. I would not blame them.

Mr. MAGNUSON. I would not blame them at all. They are all out of work.

Mr. PACKWOOD. The Russians go over there and tear up their nets, and some of these days they are going to take machineguns and go after them.

Mr. MAGNUSON. The Defense Department says "danger of gunboat wars." That is an argument I cannot buy.

Another is that it would be costly to enforce. As the Senator points out, it is just as costly to enforce the 12-mile limit as it is the 200.

The Alaskans know that. Nearly every month there is a Russian ship they haul in, fine them and let them go. It would be no more expensive to pick them up within 200 miles.

So I cannot buy that.

Mr. President, following up this line of discussion right now, I want to mention the 8-to-6 vote in the Senate Armed Services Committee which rejected the Defense Department claim. As the Senator points out, this bill has nothing to do with national security at all.

I know this is a big argument in the Law of the Sea Conference. I do not know why this is so. I have been to several of these conferences, I will say to my colleagues, that I do not know why it is that an American delegation from the State Department with many other items in a conference will go through everything, and maybe come to some good agreements.

Then the last day when half of them will start going home they throw a fisheries provision out in the middle of the floor to try to cut that up. It is an orphan, and I cannot, for the life of me, understand why these people do not want to protect our coastal fisheries.

Mr. PACKWOOD. That is our State Department, and they want us to play Uncle Sucker to every country around here.

Norway extends its zone out. We will sit here until every coastal country in the world has extended its zones out unilaterally before we act because the State Department does not want to step on anybody's toes.

Mr. MAGNUSON. And depleted all our stocks in the meantime.

Another thing we have to think about. If we do get an agreement in Geneva—which I doubt because I have enough experiences with that sort of thing to predict—it is going to take 2, 3, maybe 4 years or longer before the nations ratify it. In the meantime our fish disappear.

In the Bering Sea, the Senator from Alaska will tell you, we used to have a big halibut fleet. Now, none, none.

All the ocean perch is gone off the coast of Oregon. And this is the worst salmon year we have ever had in all our history.

Tuna has nothing to do with it. And the shrimp people—I listened to them for for a long time. I hope the Chair will listen to this. We are not doing anything to the shrimp people. In this bill we encourage an agreement between countries on shrimp.

I want to tell the Senate something, and I hope again the Chair will listen to this: If we sent an American fleet to, say, the coast of Japan, within 200 miles of the island of Japan, and started to fish, Japanese citizens would call their Diet in session in 24 hours and throw us out.

So would Russia. What are the South American countries doing? Taking advantage of us every time they have a chance, and I don't know why we aren't protecting our own.

Some people fear that other nations will retaliate—retaliate for what? Japan has got bigger fish to fry than the salmon problem with us, I will tell you that; and so has Russia.

I say if we went fishing like the other people are going fishing off the coasts of these other countries, we would be thrown out as quickly as they could get their legislative bodies assembled to pass a law against us and send a gunboat out and get us out of there. But we sit here.

Mr. HOLLINGS. And the State Department will recommend it.

Mr. MAGNUSON. Yes. "We cannot touch this," they will say. They will say this is too touchy a subject, and we cannot touch this.

Mr. HOLLINGS. We pay the fines for our fishermen in Peru, and we will pay fines for fishing off of Ecuador, but we cannot get in our own

Mr. MAGNUSON. We cannot get in our own.

I do not understand anyone opposing this bill. It only protects our fisheries. It has nothing to do with anything but fishing. If we can arrive at a Law of the Sea agreement, I will be the first to say "Amen." S. 1988 is a temporary piece of legislation.

The biggest unemployment in the country—almost 15 percent in my area and in New England—is with fishermen. That is the biggest. With all this other unemployment, I do not know what our fishermen are going to do.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. STEVENS. The unemployment in the great northwest of Alaska reaches 85 percent now, in villages of the people who live in the worst conditions under the American flag. They are the people who used to fish for these species in the near waters off our shore, but the fish do not get there anymore because the great invading fleets of the foreign countries come into the area, right along side, and sometimes within the 12-mile limit, and take all the fish.

I would like to ask those people who oppose this because they fear retaliation, retaliation from whom? It is the Russians, the Japanese, the Koreans, and the Eastern European nations that are off our shores.

I flew between Dutch Harbor and the Pribilof Islands one time and I literally stopped counting. It looked like the invasion fleet off the coast of France. I was trying to count those that were larger than any Alaska fishing vessels. There were over 100 of them, some with two- or three-story apartments on their sterns. Some of them are year round, and stay in the pack ice.

I do not think everyone understands what is going on.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. When they say retaliation, retaliation from whom?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. I will be happy to charge it to my time, I am speaking.

We have extended our jurisdiction before. President Truman extended it, unilaterally out on the Outer Continental Shelf with the Outer Continental Shelf declaration in 1948. Not only has every nation recognized the principles President Truman declared, but they have followed it in terms of the creatures of the shelf.

We extended our conservation, our contiguous zone, out 12 miles unilaterally after a series of meetings that went on for almost 14 years. We extended it 12 miles and every nation recognized our right to do so.

The opponents of S. 1988 talk about the cod war. The cod war was a 50-mile extension of national jurisdiction which was brought about by an invasion of fishing nations into the waters of Iceland. Do you know who won? They talk about the cod war, the Icelandic people won. They were the only ones who had the guts so far in the last 20 years to stand up to these nations, and they won. And we continue to have the opposition, and I recognize the opposition, of the tuna people and the shrimp people—our own people to S. 1988. But we took care of them when they were in trouble. We have been paying their fines, we have been getting their people and their vessels out of custody in Latin America.

One of the first jobs I ever had when I became a lawyer was to help get a crew out of custody in South America that had been on a tuna boat that had been seized off the coast of South America.

We have been doing this now for at least 25 years. In the meantime, we do nothing for these people who invade our shores. All we are asking is let us seize a few of the foreign vessels which violate good conservation practices and let their nations bail them out and pay their fines.

We can go on living—we have lived with South America for 20 years—despite the fact that they have seized our tuna and shrimp vessels. The strange thing is that the wealthiest fishing fleets in the country are the tuna and shrimp people, and they are opposing this, which is really a relief measure to stop the invasion of the distant water fleets within the area of those people who cannot afford to go off to the shores of South America or Africa to fish. These are the little people who fish in almost rowboats, in long boats, in little vessels that cannot, as we say, go outside.

Now we can save these fish. We propose to do it on the basis not of exclusionary claims of national jurisdiction—we say in this bill they can continue to come within our waters so long as they recognize the principles of conservation that we declare are necessary to preserve these species of fish.

If they did that down off South America, we would not have any trouble at all. It is the South Americans who have not recognized the International Tuna Agreement. We have. I cannot understand the opposition but, particularly, I cannot understand the national defense argument that there is going to be retaliation by other nations.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. PASTORE. The purpose of this bill is not exclusion as much as it is conservation.

Mr. STEVENS. Absolutely.

Mr. PASTORE. It is management in order to conserve.

We actually have eliminated entirely the haddock up around New England. I mean that is all gone, and before you know it it will all be gone, and after all, in order to propagate, you have got to have fish there, and if you sweep it all out, you will have no propagation, and the time will come when all of us will have to go hungry.

All we are saying is, all we want is, an equitable, justifiable management to make sure that we conserve these species in order that we can all eat and not ship it all to Moscow and to Peking and to the Ginza or wherever they want to bring it.

Mr. STEVENS. I would just like to add to what the Senator from Rhode Island said. It is not just haddock, it is herring, mackerel, menhaden, sable fish, shrimp in the Pacific, yellow tail, flounder, halibut, and now coming into a threat of extinction is the Alaska pollack.

Did you know in 1 year alone these foreign fishing fleets took a billion pounds of Alaska pollack out of the Bering Sea, in the North Pacific? A billion pounds, and they did it in the same year we stopped harvesting ocean mammals, an act we took in order to let the ocean mammals rebuild their stocks. What happened was the foreign fishing fleets came in and stole the ocean mammals feed so that today there are more ocean mammals dying of malnutrition than used to be harvested.

Mr. PASTORE. How about the red herring that the State Department fished out in order to kill the bill?

Mr. STEVENS. It would be nice to put them on an endangered species list.

Mr. President, the Senator from South Carolina seeks recognition, and I yield to him such time as he may need in opposition to the bill.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to S. 1988, a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry. My opposition to S. 1988 is based on my concern over its potential impact on U.S. national security interests, a concern shared by five other members of the Armed Services Committee.

Let me stress that I share the concern of the sponsors of S. 1988 that there is a requirement to protect our domestic fishing industry. However, because of security implications and other potential difficulties, such as enforcement problems, potential retaliatory actions and conflict with existing international law, I do not believe this is a problem that can be solved unilaterally at this time by the United States as S. 1988 proposes. The protection of a nation's fishing resources is a subject of interest to at least all the coastal nations of the world. With the world's food resources decreasing, it is also a subject that will be of increasing interest to every nation of the world.

Therefore, Mr. President, this is a problem which must be addressed and solved by all of the interested nations of the world. This, of course, is one of the purposes of the Third United Nations Conference on the Law of the Sea.

Mr. President, administration officials testified before the Senate Armed Services Committee that they expect the Third United Nations Conference on the Law of the Sea to conclude a timely Oceans Law Treaty next year. The treaty would include the basic protective provisions of S. 1988 but would, of course, have the advantage of being accepted by the over 100 countries participating in the Conference. It would also preclude the need of each nation to take some arbitrary unilateral action which would possibly be offensive to nations with whom we now have no direct conflict. Such arbitrary actions would almost certainly impact on our own national security interests.

Mr. President, the Armed Services Committee reviewed S. 1988 as it might conflict with our national security interests. Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, testified that the passage of S. 1988 at this time would be counter to the security interests of the United States. A main concern was that other nations, in response to such a unilateral action might impose more restrictive measures, such as territorial limits on their adjacent waters.

General Brown pointed out that in the territorial sea, submarines are required to navigate on the surface, and in the absence of free passage through straits because of expanded territorial sea claims, we would be forced to negotiate with a particular country to transit submerged.

The Chairman of the Joint Chiefs also stressed that the mobility of our general purpose forces depends upon freedom to navigate on and under the high seas and certain international straits as well as freedom to fly over the high seas and certain international straits. Therefore, he contended our Nation must be careful about taking unilateral action which might cause other coastal states to expand territorial control over a greater portion of its adjacent seas.

Of course, there is no hard evidence that other coastal nations would, in fact, impose additional territorial sea claims should the Congress pass S. 1988. However, I believe we should heed the collective judgment of the Joint Chiefs and not approve S. 1988 at this time. In the meantime, we should give our delegation to the Conference on the Law of the Sea

a full opportunity to conclude an Oceans Law Treaty next year as they testified they expect to do. Failing to achieve that treaty, it would then be appropriate to reevaluate the requirement for S. 1988.

Mr. President, other points the Senate should consider are:

First. It extends U.S. fishing jurisdiction by 2 million square miles. Enforcement would be difficult and costly if the United States acts unilaterally;

Second. The fining and imprisonment of foreign fishermen could provoke serious confrontations;

Third. Unilateral action by other nations could follow and would seriously impact on passage of sea and air forces of the United States in key spots around the world;

Fourth. Efforts at the Laws of the Sea Conference to get a multilateral agreement would be endangered;

Fifth. Approval of S. 1988 would be inconsistent with current international law as agreed at Geneva in 1958 and signed by the United States. The international court recently held Iceland's declaration of a 50-mile limit was not enforcible under international law, and

Sixth. Finally, S. 1988 could endanger present ocean passage which brings to the United States oil and many other vital resources we have to import.

Mr. President, for those reasons I urge my colleagues to oppose passage of S. 1988 at this particular time.

Mr. President, I ask unanimous consent that a letter signed by the Senator from Texas (Mr. TOWER) and the Senator from California (Mr. CRANSTON) be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. Senate,
Washington, D.C.

DEAR COLLEAGUE: The Senate will shortly take up S. 1988, the Emergency Marine Fisheries Protection Act of 1974. We are writing to urge you to vote against this bill.

We agree with the sponsors of the bill that coastal fishing stocks are severely depleted, that agreement at the Law of the Sea Conference seems distant, and that the U.S. must therefore take unilateral action to save the fish. The real question is: what kind of unilateral action?

S. 1988 would not necessarily save the fish. Better legislation has been introduced (H.R. 15619/S. 3763) which would permit unilateral action after 6 months. S. 1988 calls only for a new commission to study the problem for 2 years.

S. 1988 could seriously damage national security. Deputy Secretary of Defense Clements has pointed out that other nations might retaliate by curtailing the freedoms of navigation and overflight. Virtually the entire operating areas of the U.S. 6th and 7th fleets lie within 200 miles of some nation's coast.

S. 1988 would be costly and difficult to enforce. It would add 2,531,800 square miles to the area which the U.S. Coast Guard now polices with difficulty—an area equal to 92% of the land mass of the United States. The Coast Guard conservatively estimates that policing the known fishing areas only would require $63.2 million in start-up costs and add $47.2 million to annual operating costs.

Finally, S. 1988 would increase the danger of gunboat wars. It violates the 1958 Convention on the High Seas. Many nations would refuse to recognize a 200-mile U.S. limit. Confrontations would increase as foreign nationals continued to fish. A lesser extension—to 50 miles—led Iceland into the recent "Cod War" with Great Britain.

We hope you will join us in voting "no" on S. 1988. 40% of the world's oceans are at stake.

Sincerely,

ALAN CRANSTON.
JOHN TOWER.

The PRESIDING OFFICER. The Senator from Alaska has 3 minutes.

Mr. STEVENS. Mr. President, what other time is remaining to the Senator from Washington?

The PRESIDING OFFICER. Three minutes on the bill.

Mr. STEVENS. Does the Senator from California seek recognition?

Mr. TUNNEY. I have already made my statement in opposition, I have nothing to add to it.

Mr. MAGNUSON. Well, Mr. President, how much time do we have left?

The PRESIDING OFFICER. It was 3 minutes, it is slightly less.

Mr. CRANSTON. Mr. President, passage of S. 1988 would have several immediate and harmful consequences.

Some say that since the House has not passed a similar bill, and since S. 1988 will not become law this year, it does not matter what the Senate does.

I disagree strongly.

The Senate, and the Senate alone, must ratify any and all treaties negotiated through the Law of the Sea Conference. Whether or not S. 1988 becomes law, what the Senate does on this bill will have an extremely important impact. The passage of the bill in the Senate would strongly imply rejection of any international agreement that fell short of its terms.

Conversely, since S. 1988 will not become law at this time, its passage would gain nothing positive. Its sole effect would be to sabotage existing talks.

Mr. President, S. 1988 is being promoted in the name of conservation. But conservationists are sharply divided on this bill.

Here is what the Sierra Club had to say about S. 1988 last September:

The Sierra Club believes that S. 1988 can be detrimental to the conservation and protection of the living ocean resources and inconsistent with international efforts to secure proper conservation and environmental management of the oceans and their resources.

The Sierra Club feels that S. 1988 . . . seriously jeopardizes conservation and environmental protection efforts, both international and national in scope.

The Sierra Club added that S. 1988 would make it extremely difficult for the international community to secure minimum environmental standards for the protection of the living marine environment.

That raises a conservation issue that S. 1988 totally neglects: what is to be done about saving the fish off other nations' coasts?

As the Sierra Club points out, worldwide unilateral "grabs" would preclude the adoption of minimum environmental standards on the basis of international agreement. Management of coastal fishing stocks would pass into the hands of a wide range of governments, many of which care little or nothing about environmental protection.

Mr. President, supporters of S. 1988 have sought to create the impression that their goal is to preserve fishing stocks—as if the fishing industry were one single differentiated whole.

Actually, there are three important segments of the fishing industry that could be seriously harmed by passage of S. 1988.

First in value is the shrimp industry, headquartered in the Gulf States. An estimated 19,000 people harvest approximately $200 million of shrimp a year—24 percent of the value of our total fishing catch. The richest areas are located off the coasts of Latin American countries, especially Brazil, Mexico, and Venezuela. Passage of S. 1988 could deprive long-distance shrimp fishermen of stock and force them to compete for limited numbers of U.S. coastal shrimp.

Next comes the salmon industry of the Pacific Northwest. In 1973, over 32,000 fishermen in Alaska, Oregon, Washington, and my own State of California landed over $120 million worth of salmon. This represents 14 percent of the value of all U.S. fish landings in that year.

By international agreement, salmon fishing areas have been divided between the United States, Japan, and Canada. Passage of S. 1988 would probably undermine this agreement and put new pressure on Japan to redouble its fishing efforts outside the 200-mile zone.

Third in value is the tuna industry. In 1973, 9,000 tuna fishermen harvested about $90 million in tuna, representing about 10 percent of the total catch for that year. Most of this harvest comes from the waters off Latin America. Passage of S. 1988 would lead to a new rash of unilateral claims and multiply our long-standing problems with tuna about seizures and fines.

These three segments of the fishing industry—shrimp, salmon, and tuna—account for 48 percent of the value of all fishing stocks landed by U.S. fishermen.

I want to see more effective preservation of fishing stocks, too—but not at the expense of almost half of the fishing industry.

Mr. President, sponsors of S. 1988 say it is only an "interim" measure.

But once the United States claimed a 200-mile fisheries jurisdiction, how likely is it that any of that jurisdiction would be surrendered?

And how likely is it that other nations would sit idly by while the United States claimed both the right to fish off their coasts and a unilaterally-imposed 200-mile fishing preserve?

Given the close linkage between fishing and other ocean-related issues, would other countries seriously accept the claim put forth by supporters of S. 1988 that the bill "relates only to fishing"?

If the United States succumbs to pressure for unilateral action to further its own interests, other nations can be expected to take unilateral actions to fur-

ther theirs. These actions may represent deliberate retaliation, or they may simply represent a breakdown of a giant and ongoing international effort to save the seas from war and anarchy.

Supporters of S. 1988 have taken the curious position that the bill "reflects current international thinking." They even go so far as to say that it is "the kind of bill the International Court would approve."

By "International Court," I take it they the International Court of Justice at the Hague. The Court does not approve bills; it decides cases based on its interpretation of international law. The weight of legal opinion that I have encountered comes down heavily against the legality of the bill. Specifically, a unilateral declaration of a 200-mile fishery zone would violate the freedom of fishing established by the 1958 Geneva Convention on Freedom of the High Seas. Legal ratification of a 200-mile fisheries zone would require international agreement of the sort now being negotiated through the Law of the Sea Conference.

Supporters of the bill may argue, as they have in their "Dear Colleague" letter, that S. 1988 would not automatically eliminate foreign fishing within the 200-mile zone. But from the point of view of international law, that is not the point. It is the mere extension of jurisdiction, not its application, that is in conflict with the 1958 convention.

It is particularly unfortunate that S. 1988 is being considered now, just when the United States is making progress on both bilateral and multilateral fronts.

Discussions with Japan have already led to a voluntary cutback in the northeastern Pacific and the eastern Bering Sea. Japan's annual fish catch in those waters will be reduced about 25 percent. Furthermore, Japan has agreed to bar its fishermen from some Alaskan and west coast waters during several months of the year.

Negotiations are also underway with the Soviet Union and other major fishing nations.

A new, tough enforcement program to protect the living resources of the Continental Shelf went into effect on December 9. If foreign vessels take incidental catch while trawling for fish, they will be required to return it to the sea, or face stiff penalties.

Even on the multilateral front, things are not as bad as supporters of S. 1988 would have us believe. On the one hand, they argue that agreement and ratification of a law of the sea treaty will not be achieved until 1980 and even beyond. On the other, they cite growing international support for an internationally negotiated 200-mile "economic zone." Anyone who has followed the history of these talks, and who is familiar with the terms of the proposal offered by the United States in 1970, knows that we have come a long way toward agreement.

But there is a critical difference between a 200-mile economic zone, with primary jurisdictional reserved for the coastal state based on certain international standards, and an outright unilateral seizure. One is based on the principle of international law and the peaceful settlement of disputes; the other is not. One is both legitimate and acceptable to the world community; the other is not. One would encourage restraint and cooperation in the management of ocean resources; the other would not.

I have read the counter-arguments made by proponents of S. 1988, and I am not convinced. The arguments which I offered in a "Dear Colleague" letter, signed with the distinguished Senator from Texas, JOHN TOWER, remain valid. Briefly, they are:

First, S. 1988 would not necessarily save the fish. It calls only for a new commission to study the problem for 2 years. And by extending unilateral jurisdiction, it would damage the prospects for several major segments of the fishing industry whose interests extend beyond a U.S. zone.

Second. S. 1988 could damage national security. Other nations might retaliate by curtailing the freedoms of navigation and overflight. They might not do this in specific retaliation against a 200-mile extension, but merely to assert their own interests unilaterally. S. 1988 would give them a green light.

Third. S. 1988 would be difficult to enforce. Its supporters say that many nations would respect our zone and that it would be self-enforcing, at least to some extent. But to some extent it would not. Nations which would be least likely to accept a unilateral extension to 200 miles are precisely the nations that have the heaviest stake in fishing. There is a lot of difference between policing a zone which is considered legitimate, and policing a zone which is not.

Fourth. Finally, S. 1988 would increase the danger of gunboat wars. Supporters of the bill deny this by arguing that it would not automatically eliminate all foreign fishing within the 200-mile limit. Still, if 37 foreign fishing boats entered the 200-mile zone unimpeded, and if the Coast Guard seized the 38th one, what would its government do? Senator STENNIS, the distinguished chairman of the Armed Services Committee, pointed out in his minority views on S. 1988 that—

> The fining and imprisonment of foreign fishermen under S. 1988 would surely be considered by major fishing nations to be a serious provocation. Hence the risk of armed confrontation between U.S. military forces and fishing boats or escort gunboats of such nations as the U.S.S.R. and Japan could be substantial.

This whole area is simply fraught with risk.

To sum up, Mr. President, S. 1988 contributes little or nothing that is positive. Its passage now would only serve to block and sabotage and delay. And were it to become law, it would open up a wide range of dangers involving 40 percent of the world's oceans. I strongly urge a "no" vote.

Mr. PACKWOOD. Mr. President, by passing the Interim Fisheries Zone Extension Act, by extending our fisheries 200 miles from shore, we merely seek to extend basic principles of conservation to the sea. Frankly, Mr. President, without passage, extinction of our marine resources is imminent.

Opponents of this measure over a year ago asked the Senate to postpone our deliberation until the Law of the Sea Conference had a chance to hold its 1974 midsummer meetings in Caracas. There, we were told, through international cooperation a global accord could be reached on fisheries.

Well, Mr. President, true to the predictions of the able chairman of the Commerce Committee, true to my suspicions, true to the fears of all the sponsors of this measure, the hopes for an agreement on fisheries conservation were false. No accord was reached.

So now we are told another conference resumes in Geneva this March. Maybe we shall be satisfied then. Or perhaps in Vienna later next year. Or possibly on a return to Caracas. We just do not know, but this much I am sure of, we can no longer afford this pattern of postponement.

Mr. President, I ask unanimous consent that a New York Times article describing the globe-trotting adventures of the United Nations Law of the Sea Conferences be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PACKWOOD. Now, I do not oppose the work of the conference. We need global cooperation on fishery conservation. We need agreements on navigation rights, on the mining of the seabeds, on how best to deal with ocean pollution. Eventually we shall have them. But, "eventually," "possibly," "probably," is not reversing the severe depletion of coastal fish species we are suffering today—devastation documented by the National Marine Fisheries Service, as according to their statistics Oregon's catch alone in 1973 marked a 5.1 million pound decline from 1972 landings.

So, we ask only that a 200-mile fisheries jurisdiction be implemented. We are not talking about navigation rights, a concern voiced by the Defense Department about this bill. We are not usurping the role of international discussions which has concerned the Department of State, for we have stressed time and again this is an interim measure. Upon enactment of an accord by the law of the sea conference this legislation will expire.

We cannot wait for Caracas, Geneva, or Vienna. We cannot wait another 1, 2, or 3 years. If we intend to ever escape the desperate straits we now find ourselves in, we must act today to conserve our fisheries. If we are serious about saving our resources, passage of this interim measure is imperative.

Mr. President, before yielding the floor, I ask unanimous consent that an excellent letter to the editor of the Post, written by the Senator from Alaska, which cogently discusses many misconceptions concerning the bill, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

[From the New York Times, Aug. 30, 1974]

WORLD SEA LAW CONFERENCE ENDS WITH LITTLE ACHIEVED

CARACAS, VENEZUELA, Aug. 29 (Reuters).—The third United Nations Law of the Sea Conference, billed as one of the most vital debates in history, ended today with little to show beyond an agreement to meet again in Geneva next March.

Optimists had expected the 10-week conference to produce at least the framework of a new world treaty to deal with ocean pollution, fishing disputes, navigation rights and the ownership and sharing of oil, gas and mineral resources in coastal waters.

Dozens of the 3,000 delegates from nearly 150 nations and observer groups had already left before their national flags were lowered for the last time in the sunlit court of the towering high-rise conference complex here.

Now begins the accounting to governments at home. Some delegates maintain that their negotiating powers were watered down by the absence of clear- . . . .

Many who were new to the complicated issues bearing on laws to control exploitation of the seas have said in private that compromise on the main confrontation here between rich and poor nations can only be achieved at the ministerial level.

Delegation leaders say that divergent views on many questions have been narrowed down in group discussions outside the open conference debate.

Christopher Pinto of Sri Lanka, leading a group studying how to form an authority governing seabed minerals, said: "A good deal of progress has been made, and a sound foundation laid for further work."

But many feel this preliminary work should have been completed in the United Nations seabed committee following the first Law of the Sea Conference in 1958 and the second in 1960.

A committee formed here to polish up texts of all draft articles for incorporation in a final treaty has had no drafts submitted and no work to do.

The goal of the conference was a treaty replacing the centuries-old concept of "freedom of the seas." The projected treaty would safeguard for future generations the once-rich fishing grounds now worked to near-exhaustion and threatened by pollution.

The envisioned treaty was also expected to guard the mineral resources against speculators and to guarantee an equitable distribution of seabed wealth.

But many were certain from the start that there was little chance of a consensus on a treaty framework at this gathering, the biggest international conference ever held.

John R. Stevenson, leading the United States delegation, said yesterday that the political will to negotiate was missing, mainly because of a general conviction that there would have to be further sessions.

Now hopes are pinned on government-to-government contact and negotiations by working groups before the conference resumes in Geneva.

"It's quite obvious we have some very difficult work to do before we can create a draft," said Alan Beesley, deputy head of the Canadian delegation.

But conference observers expect that a further session may be needed—and is likely to be held in Vienna later next year—before any firm plans can be made for the projected return to Caracas for signing a treaty.

EXHIBIT 2

[From the Washington Post, Oct. 26, 1974]

RESPONSE TO "CONGRESS AND THE LAW OF THE SEA"

I hope you will allow me to respond to your October 15 editorial "Congress and the Law of the Sea."

Those of us who sponsored S. 1988, the Emergency Marine Fisheries Protection Act of 1974, did not do so in haste or without knowledge of its implications. The Senate Commerce Committee has held fifteen public hearings on the legislation in coastal states during this session of Congress. The position of many senators on this issue, including mine, has been shaped by many years of personal observations of the compounding destruction of our fisheries resources by huge foreign fishing fleets basically owned and controlled by foreign governments.

These fleets are highly efficient, as you point out; they also are operated without regard to the conservation-management practices necessary to enable fish to sustain their species. Coastal species presently in a state of depletion or in serious danger are haddock, halibut, herring, menhaden and yellowtail flounder in the Atlantic; Alaska pollack, hake, halibut, mackerel, sablefish, shrimp and yellowtail sole in the Pacific. Foreign fleets, which long ago fished out their own coastal waters, continue to take these species off our shores without regard to the condition of the stocks.

As an advisor to the U.S. delegation to the Law of the Sea Conference, I have attended preliminary sessions at Geneva, Switzerland, and New York and last summer's substantive sessions in Caracas, Venezuela. International law is the best way to bring lasting order to the economic, navigational and environmental problems of our ocean and to our fisheries problems as well. However, such agreement is two years or more away. The future of our fisheries is the only LOS issue which will be affected by the passage of time.

S. 1988 was drafted as an emergency conservation measure pertaining to fisheries only. It will expire on the effective date of a Law of the Sea treaty. S. 1988 calls for a gradual phase-down of foreign fishing through a renegotiation of our existing, less than effective bilateral and multilateral fisheries agreements with foreign nations and through new treaties where necessary to effectuate the act. It also would establish conditions under which traditional foreign fishing could be allowed to the extent that our own fishermen do not harvest the sustainable yield.

I cannot believe that such an approach will provoke retaliation—that is, extension of territorial waters by any nations which are not planning to do so anyway. You will recall that Congress acted in 1966 to extend our fisheries zone to twelve miles despite the grave warnings from our State Department similar to those we hear today. No confrontations occurred after the 1966 action. In fact, the status quo was maintained by foreign governments. If, on the other hand, our contiguous zone of twelve miles had not been established and foreign fleets had operated up to three miles off our shores through recent years, not only would our list of imperiled fish been more extensive but we would have had continuous confrontations between U.S. and foreign vessels.

Most of the conservative organizations endorse S. 1988. You are a consistent supporter of fish and wildlife conservation and in 1972 championed passage of the Marine Mammal Protection Act. I recall one article you published at that time demanded a full moratorium on the harvest of Pacific fur seals even though such a moratorium would have constituted unilateral action in an activity controlled by international treaty. The Marine Mammal Protection Act, as you know, is now law and a partial moratorium for research purposes has been negotiated and is in effect. Ironically, one of the situations that research could prove is the commonly held belief that more of our seals die of malnutrition than are harvested and the reason for this is that foreign fleets are annually harvesting more than a billion pounds of one of our fur seal's main foods, the Alaska pollack. An additional irony is that while the increasing population of ocean mammals cannot compete with these foreign fishing fleets our fisheries cannot sustain the increased pressure from both the foreign fleets and the additional mammal population.

The only way to allow the mammals to rebuild their stocks and the fisheries to to do the same is to enact S. 1988.

Mr. MAGNUSON. Mr. President, at this time, I ask unanimous consent to insert in the RECORD two newspaper articles which I believe accurately reflect the progress made at the Law of the Sea Conference this summer in Caracas. The first is from the New York Times and was written in the middle of this summer's session. The second appeared in the Washington Post and describes the closing of the session and the assessment of its progress by the President of the Conference.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PROGRESS SLOW AT SEA LAW PARLEY; MANY SPEAK PRIVATELY OF STALEMATE

(By Leslie H. Gelb)

CARACAS, VENEZUELA, Aug. 2—The Parque Central, a complex of futuristic-looking skyscrapers designed for totally self-contained living, has been inhabited since late June by about 4,000 people whose almost total daily concern is the sea that lies seven miles beyond the mountains that ring Caracas.

They are delegates to the United Nations law of the seas conference, officials of international organizations and representatives of various economic interests and of a number of liberation movements.

The purpose of the conference is to come up by Aug. 29 with some kind of coherent, if tentative, agreement on navigation, fishing, and sea mining, a partial pact that will have the effect of restraining nations from making individual laws on the sea. Then, next spring, the delegates will meet in Vienna to turn that agreement into a treaty. Their progress here is painfully slow; many speak privately of stalemate.

ORIGINAL GOAL

The original goal of the Caracas meeting was to produce a draft constiution for all nations. That treaty, it was hoped, would establish new territorial limits and zones of control for marine resources beyond the territorial limits, and provide some kind of international authority over exploitation of the deep seabeds.

"We're moving, but slowly," said John R. Stevenson, the head of the United State delegation.

"It's critical to meet the General Assembly goal of a treaty before the end of 1975," said Mr. Stevenson's deputy, John Norton Moore.

But while everyone here puts a good face on what is going on when speaking for the record, unofficially the participants in this third United Nations conference on the law of the seas since 1958 talk of stalemate.

The votes are there, says an American delegate, but the means for setting up a strong international authority for the deep seabeds are not. The private and national interests represented here seem as various and complex as the animal and plant life of the sea itself. There are nations with coasts, landlocked nations, powerful nations and underdeveloped nations—all with special axes to grind.

In the main conference hall, a theater that has been converted to look like a General Assembly hall in New York, hundreds of men and women, representing 148 countries, meet daily. They are the core of the conference, the experts: most of them have been working on law of the sea for most of their mature lives.

Andres Aguilar of Venezuela, a veteran dipiomat in matters involving the sea presides over these meetings from a podium 10 feet high set atop a stage, towering over the

delegates. In the rear of the great room sits Louis B. Sohn of Harvard University, who has been occupied with sea law for 15 years. Toward the middle of the room are Joseph Warioba of Tanzania, a lawyer who has been working on the subject five years, and Alvaro de Soto, a young Peruvian diplomat whose entire career is devoted to the search for a coherent law of the seas.

Their experience and expertise are typical of most others here, as is their zeal; they meet from early morning to late evening, and they confer while at meals.

What drives these men and women is a concern that without a new law of the seas, nations will assert more and more separate claims on fishing, on sea mining and on navigation, leading to international anarchy, new tensions and new conflicts.

The president of the conference, Hamilton Shirley Amerasinghe of Sri Lanka, likes to refer to the hoped-for document as a statement of agreement, whose language would be couched in actual treaty form, a document that would fall somewhere between a draft treaty and a declaration of principles.

One problem, a European diplomat says, is that such a statement "cannot be hammered out by voting; that would tear this conference apart. If a delegation feels its national interests are being outvoted," he went on, "it might simply pick up and leave. This must be done by consensus."

GEOGRAPHY A FACTOR

"Tell me the exact geographical situation of a nation," an American delegate said, "and I will tell you its exact negotiating position at this conference."

The United States, which has teamed up on some issues with other maritime nations such as the Soviet Union and Japan, is making proposals along the following lines:

A 12-mile territorial limit as long as there is no interference with passage over and under straits. "Territorial seas" now vary from 3 miles to as many as 200.

Beyond the 12 miles, a 188-mile economic zone, each nation having exclusive rights there to submarine resources—many such projected zones are rich in oil and natural gas—but not to fish or navigation. Fisheries would operate under the principle of full utilization: international arbiters would step in when a "host" nation was not taking a certain amount of fish from the area to determine whether other nations might use it.

Establishment of an international agency that would issue licenses to nations or corporations to mine deep seabeds. The oceans are known to contain vast stores of manganese nodules, from which nickel and copper can be derived. But only a few nations have the technological ability to do the mining.

UNITY VARIES

Unity at the conference among about 77 less developed nations varies from issue to issue. Some Latin-American states such as Peru and Ecuador simply want a 200-mile limit. But most of them, the delegates say, look for a 12-mile "territorial sea" with control over straits and an economic zone of about 200 miles, with exclusive rights to all resources, but not control over navigation, and full international ownership and control of the deep seabeds.

Still another group of about 40 nations, many of them landlocked, want to share in the resources of both the economic zone and the deep seabeds. Then there is a cluster of states like Norway and Australia that want full control to the limits of their continental shelves.

The voting procedure calls for each article to be carried by two-thirds of those present and voting, as long as that is a majority of all 148 nations represented here. But in each nation's proposal, agreement on any one issue is tied to agreement on all other issues.

This, as Jens Evensen, the head of the Norwegian delegation, sees it, means a queer kind of juggling, in which all the balls must be in the air at the same time, long enough for all to see that their interests are being accommodated.

And no nation represented here will make a fundamental concession until the others do. As an American delegate put it, "How can we wire Washington asking to make compromises when no one else around here is making any compromises?"

SEA LAW CONFERENCE CLOSES IN DEADLOCK

(By John Virtue)

CARACAS, Aug. 29.—The third U.N. Sea-Law Conference ended in deadlock today and the conference president said there was little hope of drafting a new treaty governing the use of the sea at a follow-up spring session in Geneva.

Conference President Hamilton S. Amerasinghe of Sri Lanka indicated that as many as three more sessions might be needed by the 148 participating nations to obtain a signed treaty in 1975.

"There has so far been no agreement on any final text on any single subject or issue," Amerasinghe said in closing the conference, which ended its 10-week session deadlocked on the four key issues needed for a treaty to replace the current 17th-century sea code.

"I am convinced, given the best will in the world, it will be physically impossible for us to finish the drafting of the treaty by the end of the spring session in 1975," he said later at a press conference.

Earlier this week, the conference agreed to reconvene in Geneva March 17 to May 3 and then to return to Venezuela in midsummer for signing a treaty, if one is negotiated by then. Amerasinghe indicated, however, that another session might have to be squeezed in between Geneva and Caracas.

While most delegates said publicly that the conference had achieved the expected, they privately expressed disappointment at the slow progress and the gulf between the positions of the rich industrial nations and the poor developing ones.

The division between the delegations knew no ideological bounds.

The United States and the Soviet Union were the leaders of the industrial nations, and China backed the aspirations of right-wing South American military dictatorships.

The conference became deadlocked on four key issues:

Territorial limits: the developing nations, led by Ecuador and Peru, insist on virtual sovereign control over all activities within 200 miles of their coasts. The industrial nations, led by the United States and the Soviet Union, favor giving coastal states full control over a 12-mile limit but opening up a further 188-mile economic zone to fishing and scientific research by other nations.

Deep sea mining: The developing nations want preferential treatment in mining cobalt, copper nickel and other deposits through a strong international authority, which would set its own rules and decide who mined where. The industrial nations want the rules written into the treaty.

Pollution control: The developing nations want mild controls for themselves and hard ones for the industrialized nations, who they say polluted while achieving their development. The industrial nations want uniform international standards.

Straits passage: This is the key Soviet and U.S. issue. Both want freedom of passage for their warships and merchant fleets through the more than 100 straits in the world. The straits nations, most of them developing ones, want control.

"The No. 1 priority is the mobility of our naval and air forces and the importance of retaining our nuclear deterrent," said U.S. Special Ambassador John R. Stevenson recently.

Sen. Claiborne Pell (D-R.I.), here briefly for the conference, predicted that the Senate would not ratify a treaty that did not guarantee free passage.

Stevenson, in a wind-up news conference, expressed confidence that a sea treaty could be signed in Caracas if enough hard work is done in Geneva. "There is no cause for billing the conference a failure," he said.

"We certainly did not come to Caracas expecting to go back with a signed treaty," said Tanzania's J. S. Warioba, expressing the feeling of many delegates, "But we had certainly come expecting to achieve more than we have."

Amerasinghe cautioned the nations against taking any unilateral action before a treaty is negotiated. In this, he echoed Stevenson, who warned that any extension of U.S. fishing limits by the Senate could touch off unilateral action by other nations.

There are several bills in Congress to extend the fishing limit to 200 miles, a concept officially opposed by the United States at the conference.

Ecuador and Peru, the hardliners among the developing nations, claimed a 200-mile limit in 1952, touching off the "tuna war" with the United States. Some 200 U.S. fishing trawlers, most of them from San Diego, have been seized during the past 10 years in the disputed waters.

The two South American nations said their claim was simply an extension of the Truman Doctrine, under which the United States in 1945 claimed control over the seabed resources of the continental shelf, which extends beyond 200 miles from the coast in some parts of the Atlantic. The two Pacific nations have virtually no shelf, so they claimed a 200-mile limit instead.

Mr. MAGNUSON. Mr. President, my distinguished colleague, Senator ERNEST HOLLINGS of South Carolina, is one of the genuine experts in the Congress on the oceans, the problems of our fishing industry, and law of the sea. As chairman of our committee's Subcommittee on Oceans and Atmosphere and as chairman of the Senate's National Ocean Policy Study, he is acutely aware of the need to move now to do something about establishing a method of protecting the resources of our own waters.

Senator HOLLINGS recently spelled out his views in an outstanding message delivered on October 23 before the Johns Hopkins University Ocean Policy Project Conference on Law of the Sea at Airlie House in Warrenton, Va. Senator HOLLINGS and I both serve as congressional advisers to the U.S. Law of the Sea delegation, and I ask unanimous consent that the text of his remarks be herein printed in the RECORD and that those concerned about the oceans heed his wise advice.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE LAW OF THE SEA: A DIFFERENT PERSPECTIVE

(By Senator ERNEST F. HOLLINGS)

The law of the sea interests of the international community are not necessarily totally opposite to those of the United States, and vice versa. Those who believe that the more parochial interests of coastal nations must be ignored in devising a treaty on ocean uses suffer from an acute case of what I would call, "internationalist near-sighted-

ness." An indispensable part of a university acceptable treaty on law of the sea, is an accommodation of coastal nation interests. The job of the negotiators is to balance both more specific interests of coastal nations and the broader interests of all nations, broader interests which are sometimes referred to as the "common heritage of mankind." Without a fair balancing, there simply will be no treaty. To say that an accommodation of coastal nation interests is incompatible with international interests is to say that international interests will never be recognized in a treaty.

The Third United Nations Law of the Sea Conference is unquestionably political. Unlike the previous two Conferences, this, the most recent and most ambitious of attempts to codify ocean law, is not a purely technical taking place in a vacuum, away from the pressures of general world and United Nations politics. I do not believe I am a pessimist when I say that all nations attending the Law of the Sea Conference are, in large measure, pursuing their own self-interests. And it is fair to say that the United States is no more fervent in this pursuit than are most other countries. In fact, if anything, the U.S. positions on ocean matters are perhaps more balanced than many other nations, particularly those of some of the developing nations which are flush with their own brand of strong nationalistic desires.

At one time, not too long ago, the United States and a few other nations were clearly dominant in the pursuit of their national interests, in the ocean and otherwise. Quite dramatically, the world balance has shifted to nations which possess much-needed mineral resources. Developing nations now have a solid majority in the United Nations General Assembly. The Group of 77 proposal on "Rules and Regulation" in Committee I this summer evidences their desire to swing the balance in favor of producing nations. A few oil-rich nations are dictating exorbitant prices for the energy which fuels our society. And other producers of vital raw materials are weighing the possibility of price and production cartels in order to boost their influence.

These changed world circumstances have shattered previous conventional wisdom about relationships between nations. Economic and technologic dominance by any single nation will soon be a thing of the past. Control of vital resources may very well become the pivotal factor in determining world power in the years to come.

Put in this context, I think it is easy to see what a number of general world issues will play an important role in the U.N. Law of the Sea Conference and these may have no direct relevance to the specific question of use in the world's oceans. With this background, I hope my remarks on Law of the Sea will be clearer.

Since time prevents me from discussing in detail all the elements on an acceptable law of the Sea Treaty, I plan to discuss five of the more important issues: (1) navigational freedoms; (2) the international seabed area; (3) fisheries; (4) the continental shelf; and (5) ocean pollution.

For the most part, the positions taken by our delegation in Caracas and elsewhere have been well-considered attempts at balancing the various disparate interests and views of our pluralistic nation. For the most part, these positions enjoy the support of Congress. But there are differences of opinion on various points which Congress had decided to discuss—namely the fisheries question, and deep sea mining for manganese nodules. It is healthy in our system for each branch of government to honestly express and pursue its own viewpoint. This is why I'm here this evening.

NAVIGATIONAL FREEDOMS

Given the changing world circumstances which I have mentioned I question the wisdom, and even the point, of placing importance of military issues ahead of resource issues. This has definitely been the case up to now. Is it really any longer logical to subordinate our resource objectives in the oceans to our military objectives? Why, for example, do we refuse to address the proven problem of overfishing on the basis of some tenuous fear of restricted military navigational freedoms? Especially now in these times of food shortages and high inflation rates.

It would seem to me that the question of access of resources should be given equal status with military objectives by our law of the sea negotiators. This would reflect real world problems and recognize the fact that resources indeed are as powerful as military weapons, perhaps more so. We have learned that it could be more difficult for this nation to fight an oil embargo, than it is to fight a war. And without oil there can be no successful war. Why shouldn't our Law of the Sea policy reflect this?

I believe that the U.S. is better served by separating commercial navigational issues from purely military ones. Every nation benefits from unrestricted vessel transportation on the oceans. Every coastal nation is either a producer or a consumer of raw materials and fishing products. If a coastal nation were to arbitrarily restrict the ocean transport of oil, copper, bauxite, or any other raw material or commercial item, every nation, developed or undeveloped, which is harmed would loudly protest. It is in every nations' interest that the flow of trade continue without restraint. I see no reason to conclude that the world will not agree on an ocean regime which protects the innocent passage of commercial vessels through any waters, except those designated as strictly internal.

This being so, the military desire for free or unimpeded transit should not piggyback nor confuse the commercial transit question. The military arguments should stand on their own merits, and rise and fall on that basis. Unimpeded transit rights for our military vessels should not be the sole non-negotiable item in U.S. Law of the Sea policy. Our delegation should concentrate on the important resource issues.

An acceptable Law of the Sea Treaty is one which, at the very least, protects the navigational freedoms of commercial vessels. It should also protect the right of free transit of our military vessels in international straits.

THE INTERNATIONAL SEABED AREA

After this summer's session, it would appear that the most contentious issue in the LOS negotiations is the question of the deep-sea bed. This is the area of the "common heritage of mankind" and control of its resources is the basic bone of contention. The most critical problems seem to be three: (1) what will be the nature of the resource exploration and exploitation system; (2) what will be the functions and powers of the international organization (the Authority) which governs aetivities in this area, and (3) what will be the nature of the decision-making process which guides the Authority.

The division on these problems represents the widest on any issue in the Conference, and it is fundamental. It is the United States' view that the discretion of the Authority to regulate resource exploration should be limited. Constraints or discretion should be specifice in the treaty. The U.S. also wishes a system of licensing designed to ensure that companies have the incentive to exploit the resources that exist. The developing nations, on the other hand, the "Group of 77", would grant the Authority almost complete discretion. Their desire seems to be to protect land-based producers. In fact, according to their view, if a company contracted to do exploratory work on seabed resources in the international area, there is no asurance that the same company will be given the opportunity to make good on its exploratory work and be allowed to produce and sell the resources. Land-based mineral producers spoke loudly in the halls of the Parque Central of creating cartels similar to OPEC to control prices and production.

Unquestionably, this debate is of the highest concern to the United States. I think I can safely say that Congress would not approve a treaty which establishes an international body with unlimited discretion to control deep seabed mining. Only those with an extreme sense of internationalism would approve the result.

Frankly, the United States and other developed countries appear headed toward economic war with producing nations over raw materials. This conflict is underway now and can only intensify in the near future. To allow the majority of U.N. nations to deny the U.S. access to seabed minerals critical to its well-being is unthinkable. The effect of oil prices is taking its toll on our society. Since the U.S. possesses the technology to develop the resources of the deep ocean, it is in a strong bargaining position. It should not give it up easily. It is also in the interest of all nations that raw materials be made abundantly available. Without them, many developing nations will not progress and the world order will be dangerously strained.

Summarizing, Congress would strongly support a treaty which—

(1) ensures fair access to deepsea minerals by U.S. companies under reasonable conditions;

(2) prevents land-based producers from controlling production;

(3) does not discourage investment nor a fair return on such investments;

(4) prevents monopoly and pollution in connection with deepsea bed activities.

FISHERIES

I was quite pleased this summer when Ambassador John Stevenson announced in Caracas that the United States approves, in principle, the concept of a 200-mile economic zone as part of an over-all acceptable law of the sea treaty. As a cosponsor of Senator Magnuson's bill, S. 1988, to establish such a zone for fisheries management prior to an effective ocean jurisdiction treaty, I view this move as overdue. The "species approach" to fisheries managements is best laid to rest.

Since our delegation does not object to the substance of S. 1988, but bases its strong objections to the bill's timing, there is little disagreement about what are the best fisheries provision—I think they are in the U.S. proposals now. But there will continue to be disagreement on whether earlier implementation of these provisions is needed.

Clearly, the 200-mile limit is the world consensus. Yet our long-distance fishing interests must not be foreclosed from harvesting what other coastal nations cannot take in their 200-mile zones. Access should be on a reasonable basis and without harassment. It makes no sense to allow available food resources to go to waste when the world is so short of protein. Food should not be a weapon, and a requirement of full utilization of resources within the 200-mile zone would prevent it from being used as such.

The recent decision by the International Court of Justice in the Iceland v. Great Britain case legitimized the concept of prefcrential rights for coastal states in coastal fishing areas. There should be little question about the issue in the Law of the Sea. But the Court also identified the need to protect traditional fishing rights of other nations. This balance will require definition and fine tuning.

The best law of the sea treaty from the standpoint of fisheries includes the following: (1) a 200-mile fishing management

zone; (2) a coastal nation duty to assure full utilization of available resources; (3) recognition of preferential rights for coastal nation fishermen; (4) an accommodation of other nation's traditional fishing rights by the coastal nation; (5) as the guiding principle, the duty to conserve resources by maintaining the optimum or maximum sustainable yield of fish stocks.

THE CONTINENTAL SHELF

It has been said that you can tell who is happy about the likely outcome of the Law of the Sea Conference by who remains quiet in a meeting such as this. If this is true, the oil companies aren't saying much—but they never do. Although this nation's romance with the oil companies is turning sour, no one disputes the fact that we need oil resources. With land supplies diminishing and exports expanding, we desperately need alternate sources. Only the continental shelf offers some real relief from the pressures caused by fuel shortages, the drain of capital, and continuing inflation due to gasoline prices. Consequently, Congress supports wholeheartedly the U.S. proposal to include within our resource jurisdiction the continental shelf out to the edge of the continental margin.

As we all know, the last Conference on Law of the Sea left the seaward limits of coastal state control over the continental shelf rather vague. The existing Convention on the Continental Shelf now provides coastal nations with jurisdictions out to wherever the resources can be developed. Setting the seaward limit of coastal nation jurisdiction at the continental margin seems to enjoy general support. Adopting of this limit will eliminate uncertainty and help this nation move with all deliberate speed toward self-sufficiency in oil.

I am somewhat skeptical about our ability to protect U.S. oil investments on other nation's continental shelves. Whatever the ocean treaty says, there will always be the threat of expropriation. The stakes are simply too high. We may be better off by selling oil technology to the highest bidder rather than building an entire oil production operation only to have it expropriated by a foreign nation.

I am also somewhat skeptical about the concept of revenue sharing as a mandatory concept. While sharing the benefits of the deep seabed ocean resources with developing nations has great moral appeal, dangers do exist. While it may in the first instance appear to be international responsibility, revenue sharing could lead to a reckless selfishness on the part of beneficiaries who might seek to control all development to satisfy their own desires.

However, revenue sharing from the resources of the continental shelf of the United States is, in my opinion, totally unacceptable to the Senate. The energy and economic crisis that this country finds itself in has destroyed any chance of this form of revenue sharing being ratified by the U.S. Senate. A mandatory revenue sharing requirement for continental shelf resources would preclude the flexibility we need in solving our energy and economic problems. Given the attitude of many producing nations, we cannot afford to lose our flexibility or our control of alternate sources of oil or related capital resources.

OCEAN POLLUTION

Unfortunately, delegates at the Caracas Conference do not seem to be taking the need to protect our ocean environment very seriously. If we have learned anything from our recent interest in the ocean, it is that we must be worried about its health. Consequently, I believe strong environmental standards should appear where appropriate in the treaty. Deep sea mining, oil and gas development, and tanker operations are all potentially polluting and harmful to ocean health. To prevent damage, specific standards to prevent or minimize pollution should be clear and enforceable.

What should be the goal of the marine pollution provisions in the Law of the Sea Treaty? Quite simply, it should be to prevent adverse impacts on the marine environment as a result of ocean use and development. The major problem right now is tanker pollution, both accidental and operational. But because of the international nature of the tanker business, companies have been able to find havens from both safety and environmental standards. We must find alternatives to the traditional practice of relying on flag-nation enforcement. If flag-nations do not begin to conquer the problem of ocean pollution, nations whose coastlines and port areas are threatened should be able to take steps to solve the problem themselves.

International standards for pollution prevention should be minimum standards. Nations should be able to require more stringent standards on vessels entering their ports if such are shown to be needed. This would include both vessel construction standards and permissible discharge restrictions. Sanctions for violations, however, should not unduly delay any vessel but should assure that punishment is fair and swift and that laws be observed.

The principal international oil pollution treaty now in existence has resulted only in seven attempts at enforcement. And this is despite the fact that oil pollution and vessel traffic have both been on the increase. Stronger enforcement measures are needed. Consequently, port-nations should be able to enforce discharge standards no matter where the violation occurs. The oceans are interrelated and oil dumped in one part of the world may find its way to shores far away. Vessel operators must know that laws will be enforced, otherwise there is no deterrent to cutting time by dirtying the sea.

The question has been asked whether the United States should seek a pollution control zone together with a 200-mile economic zone. If the problem of oil pollution from ships is not solved, the problem may be solved by establishing such a zone. A heavily polluted 200-mile fishery zone is a benefit to no one. If vessel operators and flag states are not required to adopt and enforce measures which will eliminate or greatly reduce the pollution of the sea, then a 200-mile pollution zone will be necessary. With 95% of our imports being carried in foreign-flag vessels, the United States can only hope that Liberia or Greece will be tough. If they aren't, the U.S. will move to protect itself.

SUMMARY

Some have stated—in classic doomsday fashion—that if a Law of the Sea treaty is not developed disaster will result—meaning war or worse. I respectfully disagree. The Law of the Sea Conference is not a last gasp effort to maintain world peace. For this reason, if it does fail, nations will seek alternative ocean arrangements, on a bilteral, regional, or multilateral basis. In fact there are a number of oceans issues which, when freed from more contentious issues, could be easily settled by separate treaties.

One of the stumbling blocks to agreement in the present deliberations is the desire of the undeveloped nations to present a unified position through the Group of 77. Getting agreement on ocean issues within a single country is extremely difficult. But achieving a single, unified position among the nearly 100 developing countries seems well nigh to impossible. As long as the developing nations attempt to negotiate in concert through the Group of 77, then agreement cannot be reached, and the Conference will fail. If that happens, the possibility of dealing with developing nations on a one-to-one basis may allow for the give and take necessary to make agreements on use of the sea.

If ocean law is not settled by a treaty or treaties, this nation should not reject taking carefully devised unilateral action. For some reason, many people seem to believe that all unilateral action is inherently bad and illegal. This is not necessarily so. The basic process of international law of the sea has been one of claim and counterclaim. That is, one nation makes a claim in the ocean to protect or advance what it believes to be its legitimate interests. The rest of the world community then evaluates this claim as to its reasonableness, then rejects or accepts it. If this nation were to act unilaterally in the ocean and its action reflects what most nations would accept, then the cause of defining international law is advanced.

If a treaty cannot be agreed upon, I believe that this nation must seriously consider unilateral action—for sure on fisheries, and perhaps on other matters as well. Granted we must be careful and sensitive if we take this route. But it is a legitimate option. If we reject this option we may succumb to "internationalist near-sightedness" and be faced with even greater confusion in the ocean than now exists.

COASTAL FISHERY JURISDICTION

Mr. MAGNUSON. Mr. President, as evidence of the world trend in coastal fishery jurisdiction, I bring to my colleagues' attention a recent article which appeared in the New York Times describing the plans of the Government of Norway to control foreign fishing within 200 miles of their shores. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NORWAY PLANS TO EXTEND FISHING LIMITS

(By Terry Robards)

OSLO, NORWAY.—The Norwegian Government is trying to bar foreign fleets from commercial fishing waters off the coast.

The aim is to extend control in three stages to waters 200 miles from shore.

The first phase involves a ban on trawling in an area totaling 5,000 square miles, mainly off the northern coast. The internationally recognized 12-mile limit would be extended at certain key points, in some cases by up to 42 miles, and the Government hopes to have the first phase completed by Christmas.

In an attempt to minimize international resistance, a broad diplomatic effort has been undertaken, involving visits by a Norwegian delegation to nine countries, among them Britain, East and West Germany and the Soviet Union. The plan remains controversial, and some political leaders wonder whether a clash reminiscent of the so-called cod wars between Britain and Iceland can be averted.

Jens Evensen, a Norwegian Minister Without Portfolio who is in charge of the delegation, acknowledged in an interview that the waters in question had been traditional fishing grounds for foreign fleets.

"But they have been more traditional for the Norwegian fleet," said Mr. Evensen, an expert on international maritime law who was given leave from his position as Minister of Commerce to conduct the negotiations with other countries. He has also visited France, Denmark, Sweden, Poland and Belgium to explain the Norwegian stand.

The message he carried was that cod and other fish in the Barents Sea and adjacent waters were threatened with extinction because of overfishing. The catch this year will be a million tons, he said.

"The experts think a maximum of 57,000 tons should be taken," he said. "It's an enormous overfishing problem." He added that trawling fleets had been driven away

from Iceland, Canada, Latin America and West Africa and were now concentrating in the Barents Sea.

Mr. Evensen mentioned Spain and Portugal, whose fleets were inactive in Norwegian waters until this year. He said Spain's catch this year would total 45,000 tons, compared with 250 tons in 1973, while Portugal's catch this year would reach 28,000 tons, compared with virtually nothing last year.

"These are examples of the problems we are up against here," he continued. "Norway has reduced its fishing from 480,000 tons to 180,000 tons at the same time."

He noted that the Soviet Union, Poland, Britain and East Germany had also curtailed their fishing.

Fishing has been one of Norway's most important industries for centuries. A major portion of the nation's four million people derive their livelihood from fishing or from processing.

Along the northern section of the shoreline many fishermen still operate with old-fashioned long lines and bottom nets that tend to snag on the equipment used by big foreign as well as Nowegian trawlers.

So the first phase of the Government's plan is to protect the local fishermen by extending the 12-mile limit.

The second stage involves the establishment of a 50-mile limit that would be restricted to the Norwegian fleet and subject to Norwegian conservation measures.

The third stage involves the creation of a 200-mile economic zone under Norwegian control.

Mr. STENNIS. Mr. President, I am thoroughly in sympathy with and in support of the Senator from West Virginia in reference to the Senate rules here about the allotment of time. I knew this bill was coming up, S. 1988. I was engaged in a conference regarding another bill, trying to get it ready to be brought up, and I thought I was going to be called.

Now, Mr. Persident, this bill, S. 1988, is a bill that was referred to the Commerce Committee, also to the Foreign Relations Committee, and the Armed Services Committee. We had hearings on the bill and consideration was given to it, and a majority of the committee voted to report the bill favorably for passage.

I voted against that position. Of course, as chairman, it was all right with me to submit it for consideration and to report the bill then. I did mention that I thought the record ought to be complete, and encouraged for the record the filing of a minority report, and I also said that I would make a few remarks because it is such a far-reaching policy involved.

Mr. President, I believe that passage of S. 1988 at this time would be unwise. S. 1988 could adversely affect U.S. national security interests, as well as other U.S. ocean interests, such as surface shipping and the mining of mineral resources on the ocean floor. S. 1988 would be inconsistent with U.S. obligations under international law and does not, in my view, represent the most effective means of resolving U.S. fishery problems.

I have a great deal of sympathy with the problem presented. Also it is a matter of judgment as to the best remedy to apply. I lean toward the idea that the effective remedy would almost necessarily come through multilateral action of the nations involved rather than unilateral action by us.

I emphasize I do not minimize the problems of the depletionof U.S. coastal fishing stocks and the growing economic pressures on the U.S. coastal fishing industry. The State that I have the honor to represent has industry there along these very lines.

I recognize these are serious problems that deserve the prompt and strenuous efforts of both Congress and the Executive. But passage of S. 1988 at this time I do not believe is the most appropriate way to deal with the problem.

ENFORCEMENT PROBLEMS

S. 1988 would extend U.S. fishery jurisdiction by approximately two million square miles. Enforcement of S. 1988 throughout such a large area will be difficult and costly.

Open defiance of U.S. authority within this vast fisbery will be a temptation and could be a reality. Great Britain, for example, recently defied Iceland's declaration of a 50 nautical mile fishery zone. The result was the so-called cod war in which various armed confrontations took place between vessels of Great Britain and Iceland.

I illustrate merely the seriousness of the matter.

The fining and imprisonment of foreign fishermen by the United States under the authority of S. 1988 would surely be considered by major fishing nations to be a serious provocation. Hence, the risk of armed confrontation between U.S. military forces and fishing boats or escort gunboats of such nations as the U.S.S.R. and Japan could be substantial.

RETALIATORY MEASURES BY OTHER NATIONS

The mobility of U.S. strategic and general purpose forces as well as the survivability of U.S. strategic forces could be threatened by various unilateral actions of other nations in response to S. 1988. Administration officials expressed the fear that in response to the passage of S. 1988 other nations would act in varying degrees to prevent naval surface and submarine passage as well as military overflight of certain coastal ocean areas. If the United States in its acknowledged leadership position at the Law of the Sea Conference succumbs to pressures for unilateral action to further its own interests, other nations can naturally be expected to take unilateral actions in their peculiar interests. These unilateral actions by other nations could well take the form of expanding their territorial seas, or in some cases, denying unimpeded transit through straits.

All the major ocean issues which are presently before the Law of the Sea Conference—from fishing rights to mineral rights to territorial jurisdiction—are closely interrelated. Commonsense and precedent suggest that other nations would respond to S. 1988 by various unilateral actions.

UNDERMINING A FAVORABLE LAW OF THE SEA CONFERENCE

Through the Law of the Sea Conference, the United States is trying to establish international agreement on the crucial national security concepts of unimpeded transit of straits and a narrow definition of territorial sea with the right to innocent passage. Narrowly defined territorial seas, that is, 12 miles or less, and the right to unimpeded transit of straits which includes submerged transit are essential to the range and mobility of the U.S. strategic submarine deterrent. More importantly, the absence of narrowly defined territorial seas and the right to unimpeded transit of straits would result in serious constraints on surface fleet operations in such critical areas as the Mediterranean Sea.

The chief of the U.S. negotiating team at the Law of the Sea Conference, Special Ambassador John R. Stevenson, has stated:

> The number one priority [of the U.S. at the Law of the Sea Conference] is the mobility of our naval and air forces and the importance of defending our nuclear deterrent.

Without an international agreement, constraints imposed by foreign nations on U.S. naval mobility could be unevenly applied by both unfriendly nations and allies to impede U.S. naval forces responding to local or regional crises. The recent Cyprus and the Yom Kippur war clearly demonstrated the importanee of U.S. naval mobility and unrestricted military overflight. These rights of military flexibility have never been guaranteed in a substantial international agreement before now.

To strike the best overall agreement at the Law of the Sea Conference, the United States needs the flexibility and leverage that comes with having the broadest range of issues on which to negotiate. By being able to bargain with fundamental fishing and economic rights of the Law of the Sea Conference, the United States has the best opportunity to achieve an international agreement that will guarantee, comprehensively and systematically, U.S. ocean interests affecting national security.

INCONSISTENT WITH INTERNATIONAL LAW

A unilateral declaration of a 200 nautical mile fishery zone would violate the freedom of fishing as established in the 1958 Geneva Agreement to which the United States was a signator. The International Court has recently held that Iceland's declaration of a 50 nautical mile fishery zone was not enforceable under international law. The United States has consistently refused to recognize any territorial or fishing claims beyond the 12-mile limit. To be sure, fishing conditions have changed since 1958 and there is a growing consensus among nations for a 200 mile coastal fishery jurisdiction. But prevailing international law on freedom of fishing, however fragile, cannot be overturned by the unilateral action of a single nation. Legal justification of a 200 mile fishery zone would require a multilateral expression of nations that could be best achieved in the Law of the Sea Conference.

RISKING OF ALL OTHER U.S. OCEAN INTERESTS

In addition to national security, the United States has a variety of other national interests which could be both threatened by retaliatory actions stemming from S. 1988 and deprived of satisfactory resolution in the Law of the Sea Conference. U.S. interests in the eco-

nomic resources of the ocean bottom, the commercial shipping of all types of cargoes including oil, and the full range of fishery interests, both coastal and distant, are all at stake in the Law of the Sea Conference. Through the bargaining of a multilateral negotiation all of these interests can be most appropriately balanced and preserved. To the extent that countries act unilaterally on one of these issues, the chances of an overall agreement will become less.

Mr. President, how much remaining time do I have?

The PRESIDING OFFICER. The Senator from Mississippi has 10 minutes remaining.

Mr. STENNIS. Ten minutes.

I change that request, Mr. President, to 15 minutes only, so I would have 5 left.

Mr. ROBERT C. BYRD. Mr. President, if the Senator needs more time——

Mr. STENNIS. I am going to use less.

Mr. ROBERT C. BYRD. I want the Senator to be assured there is no objection.

Mr. STENNIS. I thank the Senator.

CONCLUSION

Mr. President, briefly stated, the United States is confronted with serious coastal fishing problems. I want to emphasize that by every means, rather than let an inference from my position here show that I was not interested or that I do not recognize these problems.

By passage of S. 1988 the United States will be resorting to coercion rather than cooperation to resolve its fishery problems. I strongly oppose this course of action. The United States should continue to seek a resolution to its fishing problems in the normal course of the Law of the Sea Conference.

We should push and urge definite and effective multinational action and a final agreement as to a course of law binding on all parties and thus resolve these fishing problems. Failing in this, unilateral action by more than one nation is highly probable, and we would have to be among those that move in that direction.

Now, Mr. President, I again thank the membership for permitting me to use this time, particularly at this moment. I understood there was nothing else pressing just now, and again I regret that I was not here when the other part of the debate took place.

Mr. President, I yield the floor. I yield back such time as may remain.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from Texas (Mr. TOWER) be removed from the list of sponsors of S. 1988, a bill to extend the fisheries jurisdiction of the United States to 200 nautical miles, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I wish to commend Senator MAGNUSON and the members of the various committees which have worked so diligently to provide legislation for emergency relief to the American coastal fishermen. S. 1988 represents a desperately needed attempt to solve our coastal fishing problems.

For the past several years, I have been urging action to halt the critical depletion of U.S. coastal fishery stocks. The accelerating plight of our fishermen is emphasized by the several stocks such as haddock, herring, mackerel, and halibut which are dangerously close to depletion beyond the point of self-renewal. As a source of protein, fish have tremendous value because it has been a renewal resource. As the world food shortage worsens, it is evermore apparent that the United States must properly manage and conserve its fishing resources.

S. 1988 is an interim measure which will take effect to preserve our coastal fisheries, and would expire automatically whenever the United States ratifies an international treaty with respect to fishing jurisdiction. The treaty making progress has been painfully slow, and in the meanwhile the damage to American fishing interests continues and threatens to become irreversible. Indiscriminate fishing by fleets of other nations which use modern equipment that sweeps the sea clean has seriously aggravated our problem. Over fishing by these fleets has become a principal cause of the dwindling stocks off our shores. We can wait no longer to protect the interests of our fishermen. I believe we have already waited too long to act in conserving our fishing resources. I believe S. 1988 is a reasonable approach to the serious problem we are facing in managing our own living resources in our oceans and I urge immediate passage of this bill.

Mr. McINTYRE. Mr. President, I want to speak in favor of S. 1988, the Emergency Marine Fisheries Protection Act. The Armed Services Committee saw fit to report this measure out favorably. The committee should be commended for its positive and expeditious treatment.

Mr. President, the serious depletion of our fisheries resources can no longer be ignored. In 960, U.S. fishermen, except for a few Canadian vessels, were the only ones fishing the George's Bank area. In 1961, Soviet ships were taking 68,000 tons from the banks. By 1965, the Soviets were fishing as far down the east coast as Chesapeake Bay—hauling in a catch of over half a million tons—an amount far in excess of what our fishermen were taking.

Scientists from the United States and other countries have recommended an allowable level of harvest, but by 1970 the catch taken by foreign fishermen reached million tons, a level far beyond that recommended allowable level. Moreover, Mr. President, between 1960 and 1972 the U.S. share of the total catch dropped by 43.8 percent.

The fishing practices of nationally owned or heavily subsidized foreign fleets, directed by national policies which insist upon increased protein production from the seas regardless of where it exists and with no heed to conservation, are intolerable. The pillaging of our waters by foreign fishing vessels has forced us to become fish importers. In 1972, the United States experienced an adverse balance of payments of $1.3 billion in fish and fisheries products—a 318-percent increase since 1960.

It must be understood that current fishing activities affect not only our level of fish stock but our future sources of food, particularly protein food, our balance of payments, and our domestic fishing industry.

During discussion of that matter before the Armed Services Committee it was said that S. 1988 might be difficult to enforce. Senator Stevens assured the committee, and supported his statement with correspondence from Adm. O. W. Siler, Commandant of the U.S. Coast Guard, that the Coast Guard would be able to respond to any extension of fisheries jurisdiction immediately by using our active inventory. Contingency plans are already being developed by the Coast Guard to protect an increased zone of jurisdiction.

I have received various reports from New England fishermen of open confrontation between our domestic fishermen and those of foreign fleets. This legislation will clarify the responsibilities and allow able fishing levels for all fishermen and remove this potentially dangerous situation. The Coast Guard is the rightful authority to deal with these domestic coastal problems and not commercial fishermen.

The Department of Defense expressed fear that this legislation would affect our freedom of overflight and free passage of straits.

Dr. Frank E. Carlton, president of the National Coalition for Marine Conservation, has developed a paper based on an article by Dr. Robert E. Osgood, dean of John Hopkins School of Advanced International Studies entitled "U.S. Security Interests in Ocean Law." I would like to quote from Dr. Carlton's article:

Dr. Osgood's scholarly examination of the 121 straits listed by the Department of State that would be nationalized by a 12 mile territorial sea demonstrates that there are only 16 that could have importance and that 9 of those are either non-essential or fall within the territory of our military allies. Of the remaining 7, all but 3 either offer no significant targeting advantage or are too shallow or dangerous to approach submerged. Dr. Osgood's analysis reveals that only Gibraltar and two Indonesian straits are strategically significant areas which might be politically questionable if a 12 mile territorial boundary were established. For the purpose of the nuclear deterrent the entire Soviet Union can be targeted from the Atlantic and Pacific Oceans and the Arabian Sea. Dr. Osgood's studies clearly demonstrate that the physical and political necessity of free transit through international straits is not supported by objective information and should certainly not be considered a non-negotiable item inhibiting international agreement on ocean use.

Furthermore, it should be pointed out that logic as well as experience indicates that the concept of innocent passage is actually related to commercial vessels. If there is any real question that the passage of a warship is not innocent, one must wonder why any nation would sign a treaty permitting unimpeded passage, or conversely how such an agreement would deter any nation from "necessary" military action against such passage? Obviously, strategic significance is related to the capacity to place missile-launching submarines in secret position, which Dr. Osgood's analysis demonstrates does not depend physically or certainly legally upon free "transit."

The committee concluded that the mobility and survivability of U.S. military forces would not be significantly affected by the passage of S. 1988.

Mr. President, considering all these things—what are we doing? We in official capacity continue to negotiate, wring our hands, tell our fishermen to be patient, spend millions to document the drastic decline of these protein resources—and for what purpose?—to save the resource for further exploitation by foreign fleets?

I realize that the best possible solution to clarification of our ocean law is through an agreement at the Law of the Seas Conference. From all reports I have received, we will be lucky to get an agreement signed and ratified by all the member nations by the end of this decade. Our fish resources cannot wait.

This legislation represents our present negotiating position at the Law of the Seas Conference. The establishment of a 200-mile coastal fisheries zone has the endorsement of a majority of nations at the Law of the Seas Conference. Since this measure pertains only to fisheries, passage of S. 1988 should not undermine our bargaining position but rather expedite international agreement on the principle of a 200-mile zone.

I should point out that 36 nations have already extended fishery jurisdiction beyond our present 12-mile limit.

International law must be flexible. When present international fisheries regulations were established the fish resource situation was considerably different.

Today, we see significant reduced levels of fish stocks, threatened still further by modern, technically more efficient, and patently nonconservation oriented fishing practices. In these changed circumstances, we find we have a pressing need to reduce our payments imbalance and at the same time protecting our future sources of protein.

S. 1988 is an emergency, interim, conservation measure which will allow protection of our domestic resources until such time as international agreements can be worked out.

Mr. President, in my judgment, it is absolutely imperative that we pass this legislation now—before it is too late.

Mr. CASE. Mr. President, S. 1988 is intended to prevent highly efficient foreign fishing fleets from further depleting stocks of coastal fish off the shores of the United States.

I know of no one in the Senate, in the Congress as a whole, or in the country who disagrees with that objective. Unquestionably, our coastal fishermen have a legitimate grievance. Their livelihoods are being threatened by depletion of the stocks of haddock and other stocks by foreign fishermen who are harvesting these fish faster than stocks can be replenished.

Unfortunately, however, Senate passage of S. 1988, even without similar action by the House or enactment of the bill into law, could jeopardize our best hope of affording our fishermen the full degree of protection they need.

I know of no one who is familiar with the problem of foreign fishing off our coasts who does not agree that our objectives could best be achieved by an international agreement among all the nations of the world.

An international effort has been underway for a number of years to reach just such an agreement. As it is in any effort to merge the interests of a large number of parties, progress has been slow. But there has been progress.

At the first session of the Law of the Sea Conference in Caracas, Venezuela, last summer there evolved a broad consensus among the 148 nations participating that there should be an internationally recognized 200-mile zone in which each coastal state should exercise economic jurisdiction.

No one expected that consensus to be formalized into a final treaty package at Caracas. That task faces the second session of the Law of the Sea Conference scheduled to begin in Geneva in March. It will not be an easy task. There are more than fishing rights involved. There are mining rights, protection of the environment, rights of transit, rights of scientific research, and rights of communication that must be considered.

Assembly of these matters into a final treaty package at Geneva will require political decisions. The delegates at the Caracas conference did not have the authority to make political decisions. Those who represent the United States and the other nations of the world at Geneva must have that authority. I have already written to Secretary of State Kissinger that I believe top level negotiators must take part in the Geneva Conference and that an agreement must be reached on these issues in 1975. Even before the Caracas Conference others representing this and other countries have recognized that an agreement must be reached in 1975 or it will not be reached at all.

But we, by our actions in the Senate today, could destroy any chance of agreement at Geneva before that conference even begins.

As many of you know, the Committee on Foreign Relations voted to unfavorably report this legislation. It is the belief of the majority of that committee that this type of unilateral action by the United States will inevitably encourage other countries to make similar or broader claims of national jurisdiction.

If history is to repeat itself, as it often does, then the response of other nations to this legislation is not likely to be limited to comparable restrictions on fishing. Despite the assertions of some of us, such action could seriously damage overall U.S. ocean interests, including important security and energy needs. As Deputy Secretary of Defense W. P. Clements, Jr., pointed out to the Foreign Relations Committee—and I am quoting:

> If the United States, by unilateral act, abrogates one identified freedom, we face the unhappy prospect that other nations may claim the right unilaterally to abrogate other identified freedoms, including the freedoms of navigation and overflight.
>
> This threat to high seas freedoms is not, in our view, at all fanciful. A logical and predictable outgrowth of expanded fisheries jurisdiction is expanded jurisdiction over marine pollution which arguably affects marine resources. Given the misconceptions in many countries on the 'pollution' aspects of nuclear powered vessels carrying nuclear weapons, we are genuinely concerned that such restrictive claims may be advanced, either on their own merits or for unrelated political ends, as a direct consequence of enactment of this legislation. This is in fact the history of most claims to expanded territorial jurisdiction.
>
> Our strategic deterrent is based upon a triad of nuclear delivery systems, an essential portion of which is seaborne. Our general purpose forces, designed to deter war below the strategic nuclear war level, must, if the deterrent is to be credible, be free to move by air and sea to those areas where our vital interests are threatened. Military mobility on and over the high seas is dependent to a significant degree on the maintenance of the freedom of the seas. These freedoms sanction and protect the activities of our forces. Reduced international waters and closed straits, therefore, threaten both the survivability and utility of our deterrent. In this connection, it should be noted that over 40 percent of the world's oceans lie within 200 miles of some nation's coasts and that virtually the entire operating areas of the United States' 6th and 7th fleets lie within such waters.
>
> If the United States now abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing retaliatory or unrelated claims impacting adversely on national security interests. If, as we expect, enactment of this legislation results in extended delay in the Law of the Sea negotiations, we will have reverted to the uncertain and dangerous procedure of shaping a new legal order for the world's oceans by the process of claim and counterclaim, action and reaction, which hopefully eventually would coalesce into customary international law. This is a dangerous way to regulate even economic relations among states. But when the claims begin to affect the mobility of our strategic and general purpose forces, the risk involved in the process of challenge is much higher. To set the nation on this path toward resolution of oceans policy issues, is, in our view, both dangerous and extremely unwise.

As I said, that is a quote from Deputy Defense Secretary W. P. Clements.

The passage of this bill could also seriously disrupt existing relations with a number of distant water fishing nations which have traditionally fished in waters off the U.S. coast. This could lead to dangerous confrontations, particularly with the U.S.S.R. and Japan. A similar dispute between Iceland and the United Kingdom led to the now infamous "cod war," and is still a point of serious contention between the two nations.

It would be extremely unfortunate if the United States upset the current trend toward international cooperation and détente, when a generally acceptable international agreement is so near.

To adopt S. 1988 at this time would be inconsistent with U.S. international legal obligations, particularly the 1958 Convention on the High Seas which specifically identifies freedom of fishing as an essential element of the overall high seas freedoms. Forty-six nations have signed that convention and the United States has consistently opposed all other unilateral claims on the basis that they are violations of international law. The drastic reversal of our position called for in S. 1988 would seriously undermine U.S. credibility on all future ocean issues.

To me, it would be both unreasonable and unrealistic to adopt legislation

which would be almost impossible to enforce. The 200-mile zone created by S. 1988 would add 2,531,800 square nautical miles to the area which the U.S. Coast Guard now polices. This represents an area comparable to 92 percent of the land mass of the United States. The Coast Guard has conservatively estimated that policing the known fishing areas only would require $63.2 million in start-up costs and would add $47.2 million to their annual operating costs. In the absence of international acceptance the cost of enforcing a 200-mile zone would be more than any conceivable benefit to U.S. fisheries interests.

In conclusion, I believe the wisest course for reasonable men at this time is one of restraint, to give the U.N. Conference a little more time to work out an international agreement. It is hard to imagine a greater guarantee of endless international strife than would be represented by failure of that conference. The role of congressional restraint in making this possible is absolutely critical.

By using restraint at this time we will be risking nothing. Should the conference fail, there will be more than enough time to take unilateral action during the next Congress.

I ask unanimous consent that the letters from President Ford, Secretary of State Kissinger, Secretary of Commerce Dent, and Deputy Secretary of Defense Clements, opposing passage of S. 1988, all be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., September 24, 1974.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR HUGH: As you know, the Senate now has before it a bill, S. 1988, which would unilaterally extend the contiguous fisheries zone of the United States from 12 to 200 miles. I greatly appreciate your vote against reporting this bill favorably out of the Foreign Relations Committee. While I fully understand the problems in protection of living resources off the United States coast which have led to the consideration of this legislation, passage could seriously harm U.S. oceans and foreign relations interests, including our fishery interests, and could paradoxically destroy the best opportunity we have had to definitively resolve our fisheries problems; that is by a comprehensive new oceans law treaty now being negotiated within the Third United Nations Conference on the Law of the Sea.

When the new oceans law treaty is concluded I expect that it will offer broad protection for our fisheries interests. In the meantime, you may be assured that I will do everything possible consistent with our present legal rights to protect the interests of United States fishermen and to preserve the threatened stocks of living resources off our coasts.

The Law of the Sea negotiations are most important, and our nation is deeply committed to their success. As such it is vitally important that the United States support the Conference in every way possible.

I would appreciate your calling the attention of the Senate to the strong opposition of the Executive Branch to this legislation. I am sending identical letters to Mike Mansfield and John Rhodes.

Sincerely,

GERALD R. FORD.

THE SECRETARY OF STATE,
Washington, D.C., September 22, 1974.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Foreign Relations Committee recently held hearings on S. 1988, a bill to extend unilaterally the fisheries jurisdiction of the United States from the present 12-mile limit to 200 miles. I wanted you to be aware of my view that passage of this bill would be seriously harmful to our foreign relations and I was pleased to learn that the Committee reported out S. 1988 with an unfavorable recommendation.

I sympathize with the concern for our coastal fishermen which has motivated this legislation. However, the best protection for them and the best solution for our fisheries problems is a timely ocean law treaty. The United Nations Conference on the Law of the Sea has made substantial progress in formulating such a treaty and will be meeting again next spring with a view towards concluding an agreement in 1975. Passage of S. 1988 or similar legislation unilaterally extending our jurisdiction at this time would be especially damaging to the chances of concluding a treaty.

Passage of S. 1988 would hurt our relations with Japan and the Soviet Union as well as with other nations fishing off our coasts. In addition, any effort to enforce a unilaterally established 200-mile fisheries zone against non-consenting nations would be likely to lead to confrontations. Adverse reactions by foreign nations would be understandable for the United States itself has consistently protested unilateral extensions of fishery jurisdiction beyond 12 miles. A unilateral extension by the United States now could encourage a wave of claims by others which would be detrimental to our overall oceans interests, including our interests in naval mobility and the movement of energy supplies.

I very much appreciate that a majority of the Foreign Relations Committee opposed passage of S. 1988. I hope that other members of the Senate will also carefully evaluate the foreign affairs consequences from passage of this legislation in the middle of the law of the sea negotiations.

Warm regards,

HENRY A. KISSINGER.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., September 14, 1974.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that the Senate Foreign Relations Committee will shortly take up consideration of S. 1988, the Emergency Marine Fisheries Protection Act of 1974. Accordingly, I am taking this opportunity to convey to you the views of the Department of Defense, that enactment of this legislation would have a serious adverse impact on the national security interests of the United States.

The bill would extend the contiguous fisheries zone of the United States to a distance of 200 miles from the baseline from which the US territorial sea is measured. Within this expanded zone the United States would exercise exclusive fishery management responsibility and authority, with the exception of certain highly migratory species. In addition, the bill would extend the fisheries management responsibility and authority with respect to U.S. anadromous species, beyond 200 miles, to the full extent of the migratory range of such species on the high seas. The bill asserts on behalf of the United States preferential rights to all fish within the new US contiguous zone and to US anadromous species, and provides for a method whereby foreign nations which have traditionally fished within the new zone or for US anadromous species may, for a fee, be permitted such portions of any stock which cannot be fully harvested by US citizens.

The United States is a signatory to the 1958 Convention on the High Seas, which specifically identifies freedom of navigation, freedom of overflight, and freedom of fishing as among the constituent elements of the overall freedom of the high seas. The proposed legislation would unilaterally abrogate, contrary in our view to US obligations under that Convention, the freedom of fishing in significant portions of the high seas. The response of other nations to this legislation is not likely to be limited to comparable restrictions on fishing. If the United States, by unilateral act, abrogates one identified freedom, we face the unhappy prospect that other nations may claim the right unilaterally to abrogate other identified freedoms, including the freedoms of navigation and overflight.

This threat to high seas freedoms is not, in our view, at all fanciful. A logical and predictable outgrowth of expanded fisheries jurisdiction is expanded jurisdiction over marine pollution which arguably affects marine resources. Given the misconceptions in many countries on the "pollution" aspects of nuclear powered vessels and vessels carrying nuclear weapons, we are genuinely concerned that such restrictive claims may be advanced, either on their own merits or for unrelated political ends, as a direct consequence of enactment of this legislation. This is in fact the history of most claims to expanded territorial jurisdiction.

Our strategic deterrent is based upon a triad of nuclear delivery systems, an essential portion of which is seaborne. Our general purpose forces, designed to deter war below the strategic nuclear war level, must, if the deterrent is to be credible, be free to move by air and sea to those areas where our vital interests are threatened. Military mobility on and over the high seas is dependent to a significant degree on the maintenance of the freedom of the seas. These freedoms sanction and protect the activities of our forces. Reduced international waters and closed straits, therefore, threaten both the survivability and utility of our deterrent. In this connection, it should be noted that over 40 percent of the world's oceans lie within 200 miles of some nation's coast and that virtually the entire operating areas of the United States' 6th and 7th fleets lie within such waters.

Whether the proposed legislation contains sufficient distinguishing features to remove it from the ambit of the recent International Court of Justice decision that Iceland's unilateral declaration of 50 mile exclusive fisheries zone was under the relevant circumstances illegal is not for this Department to decide. However, we do perceive that the United States would not be in a strong position to oppose by legal means, unilateral claims by foreign states restricting our naval or air mobility near their coasts.

Our experience in attempting to obtain overflight clearances in Europe during the most recent Arab-Israeli conflict leads us to conclude that bilateral negotiations cannot be depended upon to ensure the military mobility necessary to achieve US foreign policy objectives. What this bill invites then, is a situation wherein the United States must either acquiesce in serious erosion of its rights to use the world's oceans, or must be prepared to forcefully assert those rights.

Thus far I have focused on what I consider the short term consequences to flow from enactment of this legislation. The long term adverse consequences to our national security interests are of equal, if not greater, concern. We recognize the worldwide trend toward expanded jurisdiction by coastal states over fisheries and other economic resources off their coasts. One of the funda-

mental objectives of the Department of Defense in the Law of the Sea negotiations undertaken with the express consent of the Senate extending over the last several years, has been to ensure that such expansion takes place in a multilateral context resulting in a treaty which clearly identifies the limits beyond which such expansion may not go. As the negotiation has progressed, we have developed a degree of confidence that we will be able to influence and control the limits of any expanded jurisdiction so as to protect and exclude from foreign control, those activities, facilities and operations essential to our national security.

In our judgment, enactment of the proposed legislation would seriously erode the prospect for a broadly based multilateral treaty putting to rest the broad range of increasingly contentious ocean issues.

We base this judgment on a number of factors. Our appreciation of the criticality of the multilateral solution has led us over the years to protest vigorously virtually all unilateral extensions of coastal state jurisdiction, whatever their avowed functional purpose. Enactment of the proposed legislation would be a dramatic and highly visible reversal of past US policy. For the US to adopt unilateralism as a viable approach to oceans policy problems at this juncture, would seriously undercut the credibility of US negotiators not only on the fisheries issue, but also on our basic commitment to international agreement. This unilateral action could result in an erosion of the world's perception of our other essential objectives such as unimpeded transit through and over straits, which we have identified as both cornerstones of our policy and essential elements of an acceptable solution.

From a substantive interest standpoint, the legislation lends support and gives added international respectability to the positions and policies of precisely those states who have been most hostile to our defense objectives, and it would at the same time offend and impose economic losses on the very states who have most consistently supported at the Law of the Sea Conference positions we deem essential for the protection of our national security interests.

Finally, we believe enactment of the proposed legislation would give substantial aid and comfort to the hard line proponents of delay in the Conference. It would lend credence and support to their argument that the long term trend in ocean law is toward a 200 mile territorial sea, evolved through a conscious parallelism of unilateral claims. In short, the prophesy of extended delays in law of the sea negotiations, which some argue requires the proposed legislation, will, in our view, become self-fulfilling prophesy if it is enacted.

If the United States now abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing, retaliatory or unrelated claims impacting adversely on national security interests. If, as we expect, enactment of this legislation results in extended delay in the Law of the Sea negotiations, we will have reverted to the uncertain and dangerous procedure of shaping a new legal order for the world's oceans by the process of claim and counterclaim, action and reaction, which hopefully eventually would coalesce into customary international law. This is a dangerous way to regulate even economic relations among states. But when the claims begin to affect the mobility of our strategic and general purpose forces, the risk involved in the process of challenge is much higher. To set the nation on this path toward resolution of oceans policy issues is, in our view, both dangerous and extremely unwise.

I very much appreciate this opportunity to set forth the views of the Department of Defense with respect to S. 1988, and appreciate the consideration I am sure they will receive from you and your Committee.

W. P. CLEMENTS, Jr.

THE SECRETARY OF COMMERCE,
Washington, D.C., September 25, 1974.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to express my deep concern over the possible enactment of S. 1988, a bill to extend unilaterally the fisheries jurisdiction of the United States from the present 12-mile limit to 200 miles.

As you know from my testimony before your committee, we in Commerce are extremely concerned over the condition of many of the fisheries resources off our shores. We are aware of the need to obtain more adequate conservation measures which will enable us to protect these and other valuable resources. We believe that the United States must have the authority to manage fisheries and other resources within a 200-mile economic zone and, indeed, this summer in Caracas, the United States indicated its support for a 200-mile economic zone.

However, Commerce firmly believes that the prudent approach to the establishment of a 200-mile economic zone is through a Law of the Sea international treaty which will protect our fisheries, the entire range of increasingly valuable mineral resources on the ocean bottoms and, of course, provide the rights of passage essential to the national defense. The LOS Conference is underway and making progress. We believe that the United States should pursue this solution of our fisheries problems further. We think it is not in the national interest to isolate the fisheries issue as S. 1988 would do.

We are convinced that a unilateral declaration by the United States of a 200-mile zone will create very serious problems involving our relations with other nations of the world and could indeed jeopardize the LOS Conference. It would be inconsistent with our historical position concerning international law. Such a declaration might not be honored by nations fishing off our coasts, thus creating major enforcement problems and confrontations which we must be prepared to face. It could lead to abrogation by other nations of existing fisheries agreements, one of the most critical being the International Convention for the High Seas Fisheries of the North Pacific Ocean, which provides protection to salmon of U.S. origin. It would be a unilateral abrogation of the freedom of fishing as set forth in the 1958 Convention on the High Seas to which the United States is a party. It could result in unilateral claims by other nations which could go substantially beyond fisheries policies. Apart from the obvious national security implications, it could effectively destroy the progress made to date toward achieving a meaningful international settlement of fisheries problems.

Needless to say, enactment of the bill would have very serious adverse effects on our distant water tuna and shrimp fisheries.

Because of the national security, diplomatic, and commercial transportation implications, and the adverse fisheries effects mentioned above, we are compelled to oppose the enactment of S. 1988, and we urge you to reconsider pushing this legislation at this time.

We recognize the need for immediate measures to assist our fishermen. In that regard, we have strengthened a number of the international agreements which we have with other nations to protect U.S. fisheries resources. We are working toward provisional application of the fisheries chapter of the Law of the Sea Convention prior to ratification by countries. We have instituted new enforcement procedures designed to protect the living resources found on our Continental Shelf. We feel that these steps will alleviate many of the problems facing our fishing industry, and we will continue to seek other avenues to resolve the problems pending multilateral agreement in the LOS forum. We believe it important that the U.S. not destroy the existing atmosphere of serious negotiation in the LOS Conference by our own unilateral act. In that atmosphere the Department of Commerce representatives to LOS will be instructed to press forward diligently to a resolution of the problems of the conference.

Because of the implications of S. 1988 to the foreign relations of the United States, as mentioned above, I am forwarding a copy of this letter to Senator Fulbright. Likewise, because of the very serious concern that Commerce has that the national security of the United States not be impaired, as we believe passage of S. 1988 will do, I am also forwarding a copy of this letter to Senator Stennis.

Yours sincerely,

FREDERICK B. DENT.

Mr. KENNEDY. Mr. President, the Senate has the opportunity today to consider the Emergency Marine Fisheries Protection Act of 1974. This bill would extend the fishing zone of the United States to 200 miles to provide protection to our fish and marine resources.

On behalf of the fishermen of Massachusetts, I want to thank the distinguished chairman of the Commerce Committee, Senator MAGNUSON for the time and effort he has put into developing and guiding this legislation to the Senate floor today. From the time Senator MAGNUSON first introduced the Emergency Marine Fisheries Protection Act, over a year and one-half ago until it reached the Senate floor today, Senator MAGNUSON has sought the views of fishermen from all over the Nation in perfecting and refining this legislation. He brought the Senate Commerce Committee to the fishermen and asked for their help.

Hearings were held by the Commerce Committee in all the major fishing areas of this country including my own State to give those who know best, the fishermen, a chance to tell of their problems firsthand.

In addition, hearings have been held by the Senate Armed Services Committee and the Foreign Relations Committee to discuss every concern expressed by my distinguished colleagues on this legislation.

It has been a long road but today we have the chance to act on this legislation which will end the abuse and destruction of one of our most valuable resources, our fish stocks. Today we have the answers to the concerns expressed that the legislation might hamper our foreign relations. Today we know that the best and the only way to assure that in the future we will have fish and marine resources to share with the rest of the world is to extend the fishing zone to 200 miles and provide a management scheem to protect these resources.

During the course of hearings on the Emergency Marine Protection Act, several facts became clearer to all of those interested in the preservation of our fish and marine life:

First, that several fish stocks are now in jeopardy of extinction, and that the

commercial fishing industry is severely threatened if the depletion of the stocks continues;

Second, that present treaty arrangements are ineffective to stop the devastation of the resources because lack of adequate enforcement procedures; and

Third, that immediate, interim action is required to reverse this critical situation while international negotiations are pending.

Evidence has been gathered by the committees of the Senate which establishes that haddock, herring, mackeral, halibut, and yellow-tail flounder are dangerously close to depletion beyond the point of self-renewal.

Warnings from the Department of State, the Administrator of the National Oceanic and Atmospheric Administration, and the National Advisory Committee on Oceans and Atmosphere all point to the need for immediate action though some disagree as to the best way to achieve the preservation of dwindling stocks. The Advisory Committee stated in 1972:

Fish resources are limited . . . the potential exists in the world to destroy these resources, and . . . if our fisheries are not in fatal trouble now, they are going to be unless something is done about conserving the resource.

Off the coast of Massachusetts, during the peak fishing seasons, American fishermen in 75-foot vessels are competing against factory-trawlers from other nations that number over 200 at one time.

The fishermen of New England have been patient. They have waited for effective enforcement of existing treaty arrangements. They have tirelessly negotiated with other members of the International Commission for the Northwest Atlantic Fisheries since 1950 to find a way for everyone to share equitably in the fish catch and at the same time preserve and protect the fish stocks from extinction.

Finally, in October of 1973, after two decades of discussing adequate management of North Atlantic resources, agreement was reached on quotas which would allow some stocks to begin to replenish themselves, not this year, but in 1976.

And all the while, the talk of quotas continued, violations by foreign fishermen continued, the stocks continued to dwindle, and the New England fishermen turned in their gear.

There is no one among us that does not hope that the Law of the Sea Conference will arrive at a satisfactory solution to the conservation of the world's fish resources. But that is a complex and slow process which became even more evident at the Caracas meeting. One hundred and forty-eight nations are discussing 80 ocean issues.

And while we cannot hope for a quick solution to any of these complex problems, the encouraging note is that based on the most recent Law of the Sea discussions, it is clear that an agreement on fish resources will be substantially the same as the legislation before you today. The Senate Armed Services Committee report concluded:

An undeniable momentum exists for international acceptance of a 200 nautical mile fishing jurisdiction. S. 1988 would allow the United States to lead that momentum rather than be swept up by it.

The Emergency Marine Fisheries Protection Act is in substance the U.S. position for the Law of the Sea negotiations. It was encouraging to us that our representatives to the Conference arrived at this position and presented it at the Conference. What does not make sense is that these same distinguished experts do not view S. 1988 as assisting and enhancing their bargaining position at the Conference.

The Emergency Marine Fisheries Protection Act is a conservation measure; it does not extend our territorial limits; it does not affect commerce or navigation; it simply allows management of the fish resources off our coasts.

The Emergency Marine Fisheries Protection Act does not abrogate existing treaty agreements, in fact it encourages new, effective treaties to carry out the provisions of this bill.

The Emergency Marine Fisheries Protection Act does not supersede any international agreement reached at the Law of the Sea Conference; it is an interim measure designed specifically to pass out of effect as soon as the Law of the Sea Treaties are in force.

Most importantly, interim extension of the fishing zone is the only enforceable method of protecting fish and marine resources. Since the U.S. position for the Law of the Sea Conference is a fishing zone of 200 miles, it is clear that eventually the United States is prepared to enforce the limit. The issue is when. The Senate Commerce Committee study suggests that for the most part, the extension of the fishing zone will be self-enforcing since most nations agree with extended fishing zones. In addition, the large-scale foreign fleet operations, which S. 1988 is designed to control are easily seen by fishermen and the U.S. Coast Guard and surveillance presents no impossible problems.

The most serious concern expresed by some of my Senate colleagues on the issue of extended fishery jurisdiction was that it would have a detrimental effect on our national security interests.

It is clear that S. 1988 does not alter the legal status of any vessel on the high seas; that it does not expand out territorial limits; that it does not affect the navigation rights of foreign vessels off our coast. The Senate Armed Services Committee, after thorough study concluded that the claims that foreign nations would retaliate by imposing territorial or transit restrictions on our military operations to be "exaggerated and without sufficient support."

Thirty-six nations have already extended their fishing limits beyond 12 miles and another 25 nations have indicated their support for 200-mile fishing limits at the Law of the Sea Conference. It is unthinkable that these same nations would use S. 1988 as a precedent for restricting navigational or overflight freedoms.

The Emergency Marine Fisheries Protection Act of 1974 is not designed to hamper relations between nations, but to foster good will among all maritime nations which participate in the world fishing industry. It is not designed to draw a line around our country, but to encourage a reasoned, sensible, and cooperative approach for all nations to join in the conservation of our marine resources. It is not designed to be a permanent solution to a difficult problem, but a temporary measure that will assure that when all the international negotiations are finished, there will be fish and marine resources left for the world to share. By passing S. 1988, the Emergeny Marine Fisheries Protection Act of 1974, the Senate of the United States is asking all the nations of the world to join with us as responsible custodians of the ocean's resources for all generations to come.

Mr. CHILES. Mr. President, it is my intention to vote in opposition to S. 1988. I am well aware of the problems currently confronting our fishing industry, and I have long supported effective measures to deal with those problems. In February of 1973 I joined with many of my Senate colleagues in cosponsoring a concurrent resolution urging that steps be taken to provide adequate protection for our coastal fisheries against excessive foreign fishing, and supporting conservation and scientific management of fisheries resources within U.S. territorial waters.

Mr. President, though I heartily admire the thought and effort which the distinguished Senator from Washington and others have devoted to this bill, it is my considered view that S. 1988 is not the best way to accomplish these ends.

This bill would be detrimental to the fundamental interests of the United States in a number of ways, as the chairman of the Armed Services Committee has so ably pointed out in his report to this body. The United States is currently negotiating, through the framework of the law of the Sea Conference, a number of closely interrelated questions. One of these is clearly the national security issue, that is, whether or not our naval forces will be able to continue to move freely through international waters. Also at stake are our exploration and utilization of seabed resources, commercial shipping rights, and distant as well as coastal fishing interests. Each of these issues is carefully balanced during the current negotiating period, and if we take strong unilateral action in one area, we are likely to have to make serious and damaging concessions in others.

Mr. President, I would like to address myself for a moment to one of the specific issues involved in this delicately balanced negotiating process: the issue of distant water fishing rights. A number of my colleagues who join me in opposition to this bill have expressed the view that if this legislation is enacted we will experience "retaliation" from our neighbors in Central and South America.

The proponents of the bill, in turn, have asked "Retaliation from whom?"—since our chief problems with excessive foreign fishing in our coastal waters come from the Soviet Union, Eastern Europe, and Japan.

I would argue, however, that "retaliation" is not the proper term. What we are likely to experience is not "retaliation" but "imitation"—imitation of a powerful nation like the United States, which by taking this kind of action would

be asserting the kind of leadership role which other nations were likely to follow.

As this body is well aware, Mr. President, we have seen this happen before when the United States has established a precedent of this sort. When we adopted a 12-mile fishing limit in 1966, our action caused a proliferation among other nations of extended claims to territorial waters. In like manner, if we enact the legislation before us, we can expect that others will follow our example with similar jurisdictional claims. If nations such as Mexico and Brazil were to follow in our footsteps and severely restrict our ability to fish off their shores, many U.S. vessels will be forced to abandon their traditional fishing grounds and return to the already heavily fished gulf area. The effect of this will be twofold: first, to cripple many of the small shrimpers in our Florida fishing industry; and second, to undermine the favorable price on seafood and shrimp which Florida currently enjoys and instead to escalate that price to every consumer.

The question I would put to the proponents of S. 1988 is this: if our chief problems in this area are in fact with the Soviet Union, Japan, and a few other nations, why should we take this drastic step which upsets our delicate negotiating stance and invites imitation all over the world? A much more realistic approach under the circumstances is that put forward by the distinguished Senator from Mississippi: to negotiate bilateral agreements directly with those few nations involved. I urge that we proceed quickly along that path and that we vote not to enact S. 1988.

Mr. BROOKE. Mr. President, today is a day for which we in New England have waited anxiously. For today the Senate will finally express its will as to the need for a 200-mile fishing limit. I am confident that this expression will be favorable.

Of the need for this legislation there can be no doubt. Our beleaguered fishing industry has arrived at a critical crossroad. Not only are the men and women who make up this industry becoming increasingly and inexorably forced out of business, but the very product they seek is increasingly—and needlessly—becoming extinct.

This state of affairs has been brought about by the tremendous increase in the fishing efforts of foreign nations off our coast. Just 10 years ago our New England fishermen were responsible for over 90 percent of the total catch off New England. Now they account for less than 45 percent. This has all but shattered our once thriving fishing industry and even more importantly, left our fish stocks seriously depleted.

When the effects of this huge foreign effort first became clear, I, like many of my colleagues, was hopeful that the International Commission for Northwest Atlantic Fisheries—ICNAF—could and would resolve the growing imbalances. Created to "protect and conserve the fisheries of the Northwest Atlantic in order to take possible the maintenance of a maximum sustained catch from these fisheries," ICNAF offered real possibilities of correcting the obvious overfishing. However, the Commission has repeatedly failed to live up to its mandate.

Most recently at its Ottawa meeting last fall, ICNAF was presented with carefully prepared scientific evidence clearly detailing the rapidly declining fish stocks in the Northwest Atlantic region. Yet, the Commission responded with only a 3-year program to reduce the foreign fishing effort—a program which will not even begin to reverse overfishing until 1975 or 1976. Moreover, the success of the Ottawa agreements are contingent upon strict compliance of all member nations. Past precedent unfortunately indicates that such compliance has not been forthcoming and there is no reason to believe that it will be forthcoming in the future.

ICNAF's failure to regulate these foreign fishing endeavors, coupled with the decline of our domestic fishing industry, has led to genuine interest on the part of Congress in establishing a 200-mile contiguous fishing zone. Such a zone would affect only fishing rights and not such rights as navigation, free and innocent passage, or other time-honored rights of the high sea. Moreover, such a zone is seen as only an interim measure contingent upon future agreements to be worked out at the International Law of the Sea Conference. It is expected that the conference will recognize the marine resources off our coast as our property.

Mr. President, the United States can no longer rely on the faith of foreign nations or on the efficacy of international agreements to save its fishing resources. If we are to save them and the men and women who harvest them, S. 1988 must be enacted. Such action will not only provide needed relief for our fishermen, but it will assure the Nation and the world of continuing availability of one of our most vital food sources. I urge my colleagues to support S. 1988.

Mr. MAGNUSON. Mr. President, with the consent of the acting majority leader, I would like to keep 3 minutes before the vote. The Senator from Mississippi (Mr. STENNIS) wants to make a statement of the position of the Armed Services Committee, which voted for this bill. So I would like to have 3 to 5 minutes before the vote on the bill to allow him to be able to say something.

Mr. ROBERT C. BYRD. Very well.

Mr. PASTORE. Why not have third reading now?

Mr. ROBERT C. BYRD. Very well, third reading.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 3:30 p.m. there be not to exceed 5 minutes for the proponents and not to exceed 5 minutes for the opponents of the bill before the vote occurs and that the time for the proponents be in charge of Mr. MAGNUSON and that the time in opposition be under the control of the Republican leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent to insert in the RECORD letters that the proponents of the bill have circulated.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
December 6, 1974.

DEAR COLLEAGUE: A vote in the Senate on S. 1988, the "Emergency Marine Fisheries Protection Act of 1974" may take in the near future. By this letter, we wish to dispel the misinformation which opponents of this much needed conservation measure have used to prevent its passage.

First of all, it is conceded by all that important coastal species of fish off our shores are severely depleted and that, despite 22 fishery agreements with other nations, further depletion is likely to occur if a solution to the overfishing problem is not found soon. Since agreement on and ratification of a final, effective Law of the Sea treaty will not be achieved until perhaps 1980 or later, if at all, unilateral action by the United States to protect its fisheries must be taken if the fish off our shores are to be saved. In our view, the action proposed by S. 1988 will prevent further depletion without tremendous cost; will *not* seriously damage our security interests; and reflects the current views of most coastal nations. Furthermore, the bill will not create "gunboat wars" since it does not automatically or totally prohibit foreign fishing in the claimed 200 mill fishing zone.

S. 1988 will prevent depletion of fishery resources. Patterned after the United States fisheries position put forward in the UN, Law of the Sea Conference. S. 1988 would provide this nation with management jurisdiction over coastal and anadromous stocks of fish. The bill is founded on the rationale that a coastal nation has a much greater stake in protecting the fish off its shores than do long disance fishing nations whose fleets can move elsewhere if the fish disappead. With management authority out to 200 miles, the U.S. will be able to control the massive foreign fishing effort it cannot now control.

S. 1988 will not damage our national security interests. Statements that other nations may, or will be entitled to, "retaliate" by curtailing the freedoms of navigation and overflight are both highly speculative and without foundation. First of all, why would other coastal states which also want extended fisheries jurisdiction have any desire to "retaliate" in any fashion? Approximately 36 coastal nations have extended their fishery limits in the ocean beyond 12 miles, the existing limit of U.S. fishery jurisdiction. In addition, another 25 to 30 nations have indicated their support for a 200 mile fishery limit in the Law of the Sea Conference.

Consequently, S. 1988 reflects current international thinking on the question of fishery limits. Since this bill expressly preserves the freedoms of navigation and overflight and relates only to fishing, it is inconceivable that other nations will, or could, effectively use S. 1988 as a precedent for restricting navigational or overflight freedoms. Furthermore, there is simply no general world support today for restricting these freedoms. In 1966, when the U.S. Congress estabiished the present 12 mile fishery limit (over similar Defense Department opposition), no "retaliation" took place. There is no reason to expect it if S 1988 is passed either.

S. 1988 would not be difficult or costly to enforce. Ironically, opponents of S. 1988 argue that a 200 mile limit would be impossible and extremely expensive to enforce. We must point out that the United States has stated in the Law of the Sea Conference that it would accept a treaty containing a 200 mile fishery jurisdiction limit.

In other words, the U.S. will be patrolling a 200 mile limit sooner or later irrespective of what happens to S. 1988. Nonetheless, we believe that the Coast Guard cost estimates are exaggerated and that fishery areas can be successfully policed at a more reasonable cost.

First, many nations *will* respect our zone and to the extent they do, S. 1988 will be self-enforcing. Secondly, our own fishermen will do some of the surveillance since the foreign fishing operations which hurt fish stocks the most are easily seen, large-scale fleet operations covering broad expanses of water, usually in well-known fishing areas. And lastly, the Coast Guard cost projections ignored the use of satellites and other remote sensors for detection of violators, a cheaper method of enforcement than aircraft and ships. Additional vessels and planes will be needed, but at modest levels and certainly not all at once.

S. 1988 will not create a "fish war" danger. It is often said that S. 1988 will lead to conflict somewhat similar to the recent "cod war" between Iceland and Great Britain. That conflict was created because Iceland totally prohibited foreign fishing within its claimed 50 mile zone and refused to negotiate with Great Britain to accommodate English fishermen's traditional fishing rights. S. 1988 is a completely different measure.

It would not eliminate automatically and totally all foreign fishing within the 200 mile limit. In fact, all existing foreign fishing done pursuant to treaty would be maintained. Instead, it is the intention of the bill to negotiate with other nations to reduce their efforts to levels commensurate with conservation needs, while recognizing their traditional fishing rights. With the preferential rights afforded our fishermen in the bill and with management responsibility, this nation will be in a stronger bargaining position to control the foreign effort. As we see it, S. 1988 is the kind of bill the International Court would approve.

We urge you to join with us in taking this vital step toward conserving and protecting our oceans' living resources. The continued viability of one of mankind's primary sources of food hangs in the balance.

Sincerely yours,

Warren G. Magnuson, Henry M. Jackson, John O. Pastore, Edward M. Kennedy, Edmund S. Muskie, Ernest F. Hollings, Thomas J. McIntyre, Ted Stevens, Lowell Weicker, Bob Packwood.

U.S. SENATE,
Washington, D.C., December 6, 1974.

U.S. Senate,
Washington, D.C.

DEAR ———: As you know, the Senate Committee on Armed Services last week reported favorably on S. 1988, the "Emergency Fisheries Protection Act of 1974", which would establish a 200-mile fisheries conservation management zone off U.S. coastal shores.

The Commerce Committee earlier reported the bill favorably after holding 14 public hearings here in Washington and in various coastal states. Foreign Relations Committee adversely reported the bill by a close 9–8 vote. Hopefully, S. 1988 will soon be on the floor for consideration. By all appearances, the vote would be close.

Senators from coastal fisheries states, most of whom support the bill, believe this is a measure of critical importance to the survival of our fisheries, and we urge you to join in assuring its passage. The three committees have compiled comprehensive information confirming the high degree of destruction inflicted on our coastal fisheries by huge foreign fishing operations. The problem is recognized by our government, which has introduced fisheries articles similar to the provisions of S. 1988 into the U.N. Law of the Sea Conference. Still, our State Department objects to any action on the bill during the interminable deliberations of the Conference.

The fundamental controversy over S. 1988 is one of timing, not concept. Having served as a Congressional Advisor to the U.S. Law of the Sea delegation, I support the over-all effort and believe international law governing the oceans is desirable. However, I also believe fisheries is one issue that cannot wait for the achievement of a comprehensive treaty and that a temporary, emergency conservation management move dealing with fisheries only, such as envisioned by S. 1988, will do no harm to ongoing negotiations.

Those opposing the bill have reiterated the inflexible position held through the years that any zonal expansion by the U.S. could create a threat to national security. Members of the Committee on Armed Services faced this issue squarely during three public hearings. Despite high-level military testimony, including that of the Chairman, Joint Chiefs of Staff, the majority of the Committee concluded that the legislation would create no particular problems to national security. Armed Services Committee Report No. 93–1300 is newly available and has had little time for circulation. Consequently, I am attaching for your information a copy of pages 4 and 5, which discuss national security considerations and state the Committee conclusion.

Please call me if you wish to discuss this important bill further. Also, I have asked Bud Walsh (4–9347) and Bud Costello (4–1251), of the Commerce Committee majority and minority staffs respectively, to cooperate in any way possible to provide your staff with any additional information requested.

With best wishes,

Cordially,

TED STEVENS,
U.S. Senator.

TRADE REFORM ACT OF 1974

AMENDMENT NO. 2022

Mr. HELMS. Mr. President, I ask unanimous consent that amendment No. 2022, in connection with the Trade Reform Act, which I sent to the desk yesterday and which has been printed, be considered as having been read, to meet the requirements of rule XXII should cloture be invoked or in connection with H.R. 10710, the Trade Reform Act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of amendment No. 2022.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNITY SERVICES ACT OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 14449, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14449) to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs.

The PRESIDING OFFICER. Time for debate on this bill shall be limited to 1 hour equally divided between the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Michigan (Mr. GRIFFIN), or their designees, with 30 minutes on each amendment and 10 minutes on any debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the Committee on Labor and Public Welfare unanimously reported the pending bill to extend the Economic Opportunity Act programs. The bill is titled "The Head Start, Economic Opportunity, and Community Partnership Act of 1974."

The House passed bill, H.R. 14449, to transfer the Economic Opportunity Act programs to the Department of Health, Education, and Welfare, passed the House of Representatives by a vote of 331 to 53 on May 20, 1974.

The last rollcall vote on OEO legislation in the Senate took place June 30, 1972, when the Economic Opportunity Amendments of 1972 passed by a vote of 75–13.

The Head Start, Economic Opportunity, and Community Partnership Act of 1974 extends the authorization for anti-poverty programs under the Economic Opportunity Act for 3 years—through fiscal year 1977. These programs include Head Start, Follow Through, Community Action, Senior Opportunities and Services, Emergency Food and Medical Services, Community Economic Development programs, and Native American Programs.

The Office of Economic Opportunity itself would be continued until October 1, 1975. At any time after June 30, 1975, the President may submit a Reorganization Plan proposing to transfer community action and the other remaining OEO programs to the Department of Health, Education, and Welfare, except for the Community Economic Development program which would be transferred to the Department of Commerce.

In accord with reorganization plan procedures, either the House or the Senate could disapprove such a reorganization plan within 60 days of its transmittal. If the President did not submit a reorganization plan, or, if either house of Congress disapproved it, OEO would become the Community Services Administration, which would be an independent agency in the Federal Government.

The legislation extends the authorization for local initiative funding for community action programs.

The committee-reported bill would retain the 80 percent Federal share with respect to financial assistance to community action programs. This is the same as the current law's provision setting the Federal share at 80 percent of the program costs for community action programs.

In accord with the administration's request, the committee-reported bill consolidates the legislative authority for the Head Start and Follow Through programs within the Department of Health, Education, and Welfare, in recognition of the fact that operational responsibility for such programs has been in HEW for several years.

In addition, the bill includes titles relating to Native American programs and research programs along the lines requested by the administration.

The legislation adds a new section authorizing a community partnership program of incentive grants to match to these funds made available by State and local governments for community action programs.

The pending legislation does not earmark funds for particular purposes. Instead it authorizes the appropriation of such sums as may be necessary—leaving to the appropriations process any specific earmarking. However, it does provide that, if funds appropriated for local initiative community action in excess of $330 million, then half of any such excess amount should go to the new incentive program to match State and local contributions to community action activities.

COMMITTEE COMPROMISE

The committee-reported bill is a compromise between the views of those who support transferring OED to HEW and those who support the continuation of a separate agency for antipoverty programs. The part of the legislation which involved the most difficult consideration was the question of where the Office of Economic Opportunity should be located organizationally.

At the present time, the Office of Economic Opportunity retains actual operational responsibility for local initiative community action programs, community economic development programs, senior opportunities and services, and emergency food and medical services. But most of the other programs initiated by the Office of Economic Opportunity have the past several years been spun off under delegation arrangements to other departments and agencies of the Federal Government.

The bill which was passed by the House of Representatives earlier this session (H.R. 14449), provides for the programs which now remain under the administration of the Office of Economic Opportunity to be transferred to the Department of Health, Education, and Welfare, except for the community economic development program which the House-passed bill would transfer to the Department of Commerce.

The bill I introduced in the Senate (S 3870) was similar to the House-passed bill in proposing to transfer the remaining OEO programs to HEW.

The other major bill was introduced by Senators JAVITS and KENNEDY (S. 3798). The Javits-Kennedy bill proposed creation of a new independent agency to replace the Office of Economic Opportunity as the Federal Government's antipoverty agency.

A large number of people around the Nation have urged the Congress to support the continuation of any agency within the Federal Government to serve as the focal point for antipoverty efforts.

Whether or not the Office of Economic Opportunity is established as a separate agency within HEW or remains as a separate agency, there should be no doubt that there is broadly felt need in this country to have a strong antipoverty agency.

Aside from the question of where the antipoverty agency should be located, the other major difference between the committee-reported bill and the House-passed bill is that the bill passed by the House reduces the Federal share for local initiative community action programs from 80 percent in fiscal year 1975, down to 70 percent in fiscal year 1976, and then to 60 percent in fiscal year 1977.

While the purpose of the House-passed phasing down of the Federal share is to encourage State and local contributions to community action programs, the impact upon hard-pressed State and local governments is to impose a severe fiscal impact at a time when the state of the economy is such as to make it particularly difficult for State and local governments to budget for new activities which they have not budgeted in the past.

To a limited extent, some State and local governments have devoted some funds to community action programs. The committee-reported bill contains a new community partnership program which seeks to encourage and reward those States and local governments which provide increased funding for community action activities in the future.

Under this new incentive program, funds would be provided to assist State and local governments which enter into arrangements with community action agencies to support activities and services in addition to those which have been provided by community action agencies. In other words, these activities would be supplemental to existing community action programs.

NEED TO CONTINUE THE ANTIPOVERTY PROGRAMS

The need for the antipoverty programs authorized by the Economic Opportunity Act has been underscored by support from national leaders representing a variety of viewpoints. They insist that we not abandon programs that have demonstrated their effectiveness in reaching out to help solve the problems of the poor, and have urged that the Federal Government continue and strengthen these programs. The National Advisory Council on Economic Opportunity concluded that even in normal times federally funded antipoverty programs "are important in urban areas and indispensable in rural areas."

President Ford stated in his economic message to the Congress of October 8:

I know that low-income and middle-income Americans have been hardest hit by inflation. Their budgets are most vulnerable because a larger part of their income goes for the highly inflated costs of food, fuel and medical care.

Food, housing, and fuel costs, together constitute 82 percent of the increase in the cost of living. But they make up a 40 percent larger chunk of the budget of the low-income family than of the average family. For the poor, as well as for others, there is little relief in sight. As of the third quarter of 1974, the Wholesale Price Index was increasing at a 28.1 percent annual rate, and the price of industrial commodities has been rising at a rate of 30.3 percent, insuring higher prices for many necessary products into the foreseeable future.

Furthermore, the "substitution effect" that serves to cushion somewhat the blow of economic distress on middle-income families simply does not function below the poverty line. As HEW economist John Palmer said in a recent study on the effects of inflation:

The poor have little or no flexibility to adjust to job or real income losses: if the demand for unskilled labor slackens there are no lower-paying jobs for which they can compete. If the price of low-grade cuts of beef rises, there are no lower cuts to substitute.

COMMUNITY ACTION

Although community action programs were once highly controversial, they now enjoy wide acceptance and support from State and city officials and civic leaders from all sections of the country, reflecting political persuasions across the board, from conservative to liberal.

Community action agencies clearly perform a unique and essential function not only in providing services to the poor, but in reflecting the specific concerns of the communities they serve. Local participation and flexibility are the cornerstones of the community action program.

The community action program has been successful because it has been tailored to the unique needs of each local community. There are over 900 community action programs at the present time. A total of 95 of these community action programs are public agencies operating through the local government structure. Other community action agencies are nonprofit private agencies which are governed by boards consisting of public representatives and community leaders.

Community action agencies have been effective in mobilizing other Federal and local resources. Thus, community action programs operate manpower programs and receive funding through the Comprehensive Employment and Training Act. In addition, many community action programs operate Head Start programs and receive funds directly from the Office of Child Development for carrying our Head Start programs.

The committee believes that one of the most important functions of community action agencies is to initiate innovative programs. In the past, CAP's have re-

S. 1988

nuclear safeguards. I do, however, expect that the fiscal year 1976 nuclear safeguards budget for the Arms Control and Disarmament Agency and the successor agencies to the AEC—the Nuclear Regulatory Commission and the Energy Research and Development Administration—will provide enough funds to assure a vigorous international safeguards effort. It would be a gross perversion of the world's priorities to suggest that a few million dollars is too high a price to pay for the maintenance of world order.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question now is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 16609, Calendar No. 1234, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 16609) to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, all after the enacting clause is struck, and substituted therefore is the text of S. 4033, as amended by the Senate.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 16609) was passed.

Mr. PASTORE. Mr. President, I move that the vote be reconsidered.

Mr. ROBERT C. BYRD. I move to lay that on the table.

The motion to lay on the table was agreed to.

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1988, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert in lieu thereof:

That this Act may be cited as the "Emergency Marine Fisheries Protection Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) Valuable coastal and anadromous species of fish off the shores of the United States are in danger of being seriously depleted by excessive fishing effort.

(2) Stocks of coastal and anadromous species which inhabit waters of the 3-mile territorial sea and the existing 9-mile contiguous fishery zone of the United States are being depleted by foreign fishing efforts outside the 12-mile combined zone in which the United States presently possesses fishery management responsibility and authority.

(3) International negotiations have so far failed to result in effective international agreements on the conservation and management of threatened stocks of fish.

(4) There is danger that further depletion of these fishery resources will occur before an effective general international agreement on fishery jurisdiction can be negotiated, signed, ratified, and implemented, unless emergency action is taken pending such international agreement.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take emergency action to protect and conserve threatened stocks of fish by asserting fishery management responsibility and authority over fish in an extended contiguous fishery zone and over certain species of fish beyond such zone, until a general international agreement on fishery jurisdiction comes into force or is provisionally applied;

(2) to extend, as an emergency measure, the fishery management responsibility and authority of the United States to 200 nautical miles;

(3) to extend, as an emergency measure, fishery management responsibility and authority of the United States over anadromous species of fish which spawn in and fresh or estuarine waters of the United States; and

(4) to commit the Federal Government to act to prevent further depletion, to restore depleted stocks, and to protect and conserve fish to the full extent of such emergency responsibility and authority, and to provide for the identification, development, and implementation within 2 years of the date of enactment of this Act of the best practicable management system consistent with the interests of the Nation, the several States, and of other nations.

(c) POLICY.—It is further declared to the policy of the Congress in this Act—

(1) to maintain the existing territorial or other ocean jurisdiction of the United States without change, for all purposes other than the protection and conservation of certain species of fish and fish in certain ocean areas pending international agreement on fishery jurisdiction;

(2) to authorize no action, activity, or assertion of jurisdiction in contravention of any existing treaty or other international agreement to which the United States is party other than that necessary to further the purposes of this Act; and

(3) to authorize no impediment to or interference with the legal status of the high seas, except with respect to fishing to the extent necessary to implement this Act.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires—

(1) "anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States but which migrate to ocean waters;

(2) "citizen of the United States" means any person who is a citizen of the United States by birth, by naturalization or other legal judgment, or, with respect to a corporation, partnership, or other association, by organization under and maintenance, after the date of enactment of this Act, in accordance with the laws of any State: *Provided*, That (A) the controlling interest therein is owned or beneficially vested in individuals who are citizens of the United States; and (B) the chairman, and not less than two-thirds of the members, of the board of directors or other governing board thereof are individuals who are citizens of the United States;

(3) "coastal species" means all species of fish which inhabit the waters off the coasts of the United States, other than highly migratory and anadromous species;

(4) "contiguous fishery zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(5) "controlling interest" means (A) 75 percent of the stock of any corporation, or other entity, is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States, (B) 75 percent of the voting power in such corporation, or such other entity, is vested in citizens of the United States, (C) no arrangement or contract exists providing that more than 25 percent of the voting power in such corporation, or such other entity, may be exercised in behalf of any person who is not a citizen of the United States, and (D) by no means whatsoever is control of any interest in such corporation, or such other entity, conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(6) "fish" includes mollusks, crustaceans, marine mammals (except the polar bear, walrus, and sea otter), and all other forms of marine animal and plant life (but not including birds), and the living resources of the Continental Shelf as defined in the Act of May 20, 1964 (78 Stat. 196);

(7) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting of any species of fish for any purpose, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(8) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or a type which is normally used for, fishing;

(9) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity, including, but not limited to, supply, storage, refrigeration, or processing;

(10) "highly migratory species" means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including, but not limited to, tuna;

(11) "optimum sustainable yield" refers to the largest economic return consistent with the biological capabilities of the stock, as determined on the basis of all relevant economic, biological, and environmental factors;

(12) "person" includes any government or entity thereof (and a citizen of any foreign nation);

(13) "Secretary" means the Secretary of Commerce, or his delegate;

(14) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States;

(15) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit;

(16) "traditional foreign fishing" means longstanding, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation in compliance with any applicable international fishery agreements and with the laws of such foreign nation; and

(17) "United States", when used in a geographical context, includes all States.

FISHERIES MANAGEMENT RESPONSIBILITY

SEC. 4. (a) CONTIGUOUS FISHERY ZONE.—(1) There is established, for the duration of this Act, a fishery zone contiguous to the territorial sea of the United States. The United States shall exercise exclusive fishery management responsibility and authority within this contiguous fishery zone.

(2) The contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is 197 nautical miles from the inner boundary.

(3) Notwithstanding any other provision of law, the fishery management responsibility and authority of the United States within the contiguous fishery zone of the United States shall not include or be construed to extend to highly migratory species, except to the extent such species are not managed pursuant to bilateral or multilateral international fishery agreements.

(b) ANADROMOUS SPECIES.—The fishery management responsibility and authority of the United States with respect to anadromous species, for the duration of this Act, extends to such species wherever found throughout the migratory range of such species: Provided, That such responsibility and authority shall not extend to such species to the extent found within the territorial waters or contiguous fishery zone of any other nation.

(c) GENERAL.—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone, and with respect to anadromous species of fish, pursuant to the responsibility and authority vested in it pursuant to this section, subject to traditional foreign fishing rights as defined and recognized in accordance with section 5 of this Act.

(d) REGULATIONS.—The Secretary is authorized to promulgate such regulations in accordance with section 553 of title 5, United States Code, as are necessary to implement the purposes of this Act. The Secretary is further authorized to amend such regulations in the manner originally promulgated.

FOREIGN FISHING RIGHTS

SEC. 5. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize fishing within the contiguous fishery zone of the United States, or for anadromous species or both, by citizens of any foreign nation, in accordance with this section, only if such nation has traditionally engaged in such fishing prior to the date of enactment of this Act.

(b) PROVISIONS.—The allowable level of traditional foreign fishing shall be set upon the basis of the portion of any stock which cannot be harvested by citizens of the United States. Allowed traditional foreign fishing and fishing by citizens of the United States annually shall not, for any stock, exceed the optimum sustainable yield for such stock.

(c) RECIPROCITY.—Traditional foreign fishing rights shall not be recognized pursuant to this section unless any foreign nation claiming such rights demonstrates that it grants similar traditional fishing rights to citizens of the United States within the contiguous fishery zone of such nation, if any exist, or with respect to anadromous species which spawn in the fresh or estuarine waters of such nations.

(d) PROCEDURES.—(1) In determining the allowable level of foreign fishing with respect to any stock, the Secretary shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant available data compiled by any foreign nation claiming traditional fishing rights.

(2) The Secretary is authorized to establish reasonable fees which shall be paid by the citizens of any foreign nation engaged in exercising foreign fishing rights recognized under this section. Such fees shall be set in an amount sufficient to reimburse the United States for administrative expenses incurred pursuant to this section and for an equitable share of the management and conservation expenses incurred by the United States in accordance with this Act, including the cost of regulation and enforcement.

(e) PROHIBITION.—Except as provided in this Act, it shall be unlawful for any person not a citizen of the United States to own or operate a fishing vessel or fishing support vessel engaged in fishing in the contiguous fishery zone of the United States or for anadromous species of fish.

MARINE FISHERIES MANAGEMENT AND CONSERVATION PLANNING

SEC. 6. (a) OBJECTIVES.—It is the intent of the Congress that the following objectives be considered and included (to the extent practicable) in plans, programs, and standards for the management and conservation of marine fisheries; (1) evaluation of actual and foreseeable costs and benefits attributable thereto; (2) enhancement of total national and world food supply; (3) improvement of the economic well-being of fishermen; (4) maximum feasible utilization of methods, practices, and techniques that are optimal in terms of efficiency, protection of the ecosystem of which fish are a part, and conservation of stocks and species; and (5) effectuation of the purposes stated in section 2(b)(4) of this Act. Due consideration shall be given to alternative methods for achieving these objectives.

(b) FISHERIES MANAGEMENT COUNCIL.—There is established a Fisheries Management Council (hereinafter referred to as the "Council"). The Council shall consist of 11 individual members, as follows:

(1) a Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) three Government members, who shall be the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of State, or their duly authorized representatives; and

(3) seven nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) three to be selected from a list of qualified individuals recommended by each of the regional fisheries commissions or their successors, one of whom shall be a representative respectively of Atlantic, Pacific, and Gulf of Mexico commercial fishing efforts; and

(B) four to be selected from a list of qualified individuals recommended by the National Governors Conference, at least one of whom shall be a representative of a coastal State.

As used in this paragraph, a list of qualified individuals shall consist of not less than three individuals for each Council member to be appointed.

As used in this subsection, "qualified individual" means an individual who is distinguished for his knowledge and experience in fisheries management and conservation, and who is equipped by experience, known talents, and interests to further the policy of this Act effectively, positively, and independently if appointed to be a member of the Board. The terms of office of the nongovernment members of the Council first taking office shall expire as designated by the President at the time of nomination—two at the end of the first year; two at the end of the second year; and three at the end of the third year. The term of office of the Chairman of the Council shall be 3 years. Successors to members of the Council shall be appointed in the same manner as the original members and, except in the case of Government members, shall have terms of office expiring 3 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) POWERS AND DUTIES.—The Council shall—

(1) engage in the preparation of a plan or plans for marine fisheries management and conservation;

(2) provide information and expert assistance to States and local or regional fisheries authorities in marine fisheries management and conservation;

(3) adopt, amend, and repeal such rules and regulations governing the operation of the Council and as are necessary to carry out the authority granted under this section; conduct its affairs, carry on operations, and maintain offices; appoint, fix the compensation, and assign the duties of such experts, agents, consultants, and other full- and part-time employee as it deems necessary or appropriate;

(4) consult on an ongoing basis (A) with other Federal agencies and departments; (B) with officials of coastal States who are concerned with marine fisheries management and conservation planning; (C) with appropriate officials of other nations which are exercising traditional foreign fishing rights, through the good offices of the Secretary of State; and (D) with owners and operators of fishing vessels;

(5) enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions and duties with any person (including a government entity);

(6) prepare a survey of fisheries subject to the emergency conservation and management authority granted to the United States by this Act, including, but not limited to, depleted stocks and stocks threatened with depletion; and

(7) survey, study, and prepare a marine fisheries management plan setting forth the elements of a national management system to conserve and protect fish.

(d) REVIEW BY CONGRESS.—The Council shall submit the marine fisheries management plan adopted by the Council to the Senate Committee on Commerce and the Committee on Merchant Marine and Fisheries of the House of Representatives not later than 2 years after the date of enactment of this Act. The marine fisheries management plan shall be deemed approved at the end of the first period of 180 calendar days of continuous session of Congress after such date of transmittal unless the House of Representatives and the Senate pass resolution in substantially the same form stating that the marine fisheries management plan is not favored. If the House and the Senate pass resolutions of disapproval under this subsection, the Council shall prepare, determine, and adopt a revised plan. Each such revised plan shall be submitted to Congress for review pursuant to this subsection. For purposes of this section (1) continuity of session of Congress is broken only by an adjournment sine die; and (2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 180-day period.

(e) MISCELLANEOUS.—(1) The marine fisheries management plan which is adopted

by the Council and which becomes effective after review by the Congress is not subject to review by any court.

(2) The Council shall have a seal which shall be judicially recognized.

(3) The Administrator of General Services shall furnish the Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(4) A member of the Council who is not otherwise an employee of the Federal Government may receive $300 per diem when engaged in the actual performance of his duties as a member of the Council plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. Each member of the Council shall be authorized such sums as are necessary to enable him to appoint and compensate an adequate qualified full-time professional staff responsible and subject to his control, but not otherwise subject to control by the Council.

(f) TERMINATION.—The Council shall cease to exist 30 days after adoption by Congress of the marine fisheries plan pursuant to subsection (d) of this section.

(g) AUTHORIZATION.—There are hereby authorized to be appropriated for the purposes of this section a sum not to exceed $1,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976.

INTERNATIONAL FISHERY AGREEMENTS

SEC. 7. (a) GENERAL.—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which is engaged in, or whose citizens are engaged in, fishing in the contiguous fishery zone of the United States or for anadromous species. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose contiguous fishery zone or equivalent economic zone citizens of the United States are engaged in fishing or with respect to anadromous species as to which such nation asserts management responsibility and authority and for which citizens of the United States fish. The purpose of such negotiations shall be to enter into international fishery agreements on a bilateral or multilateral basis to effectuate the purposes, policy, and provisions of this Act. Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(1) coastal species, which are found in both the contiguous fishery zone of the United States and the equivalent such zone of a foreign nation adjacent thereto;

(2) anadromous species, which are found during the course of their migrations in ocean areas subject to the fishery management responsibility and authority of more than one nation;

(3) highly migratory species which are or may be covered by international fishery agreements; and

(4) coastal species, which are found in areas subject to the fishery management responsibility and authority of any foreign nation, through measures which allow citizens of the United States to harvest an appropriate portion of such species in accordance with traditional United States fishing rights in such areas.

(b) REVIEW.—The Secretary of State shall review, in cooperation with the Secretary, each treaty, convention, and other international fishery agreements to which the United States is party to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend such agreement: *Provided*, That nothing in this Act shall be construed to abrogate any duty or responsibility of the United States under any lawful treaty, convention, or other international agreement which is in effect on the date of enactment of this Act.

(c) BOUNDARIES AGREEMENT.—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the contiguous fishery zone of the United States in relation to any such nation.

(d) NONRECOGNITION.—It is the sense of the Congress that the U.S. Government shall not recognize the limits of the contiguous fishery zone of any foreign nation beyond 12 nautical miles from the base line from which the territorial sea is measured, unless such nation recognizes the traditional fishing rights of citizens of the United States, if any, within any claimed extension of such zone or with respect to anadromous species, or recognizes the management of highly migratory species by the appropriate existing bilateral or multilateral international fishery agreements irrespective of whether such nation is party thereto.

RELATIONSHIP TO STATE LAWS

SEC. 8. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond the territorial sea of the United States, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within the territorial sea of the United States.

PROHIBITED ACTS AND PENALTIES

SEC. 9. (a) PROHIBITED ACTS.—It is unlawful for any person to—

(1) violate any provision of this Act, or any regulation issued under this Act, regarding fishery within the contiguous fishery zone or with respect to anadromous species;

(2) violate any provision of any international fishery agreement to which the United States is party negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the contiguous fishery zone or fishing for anadromous species as defined in section 4 of this Act;

(3) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (1) or (2) of this subsection where such person knew or had reason to know that such taking was not lawful;

(4) violate any duly issued regulation under this Act with respect to making, keeping, submitting, or furnishing to the Secretary any records, reports, or other information;

(5) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control where the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials; or

(6) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (5) of this subsection, or to resist any lawful arrest.

(b) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by subsection (a) of this section, shall be liable to the United States for a civil forfeiture in accordnace with subsection (d) of this section and for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each day of each violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person who is found to have committed a prohibited act and against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(c) CRIMINAL PENALTIES.—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than $50,000 or imprisoned for no more than 1 year, or both.

(d) CIVIL FORFEITURE.—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered under this subsection for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informants with respect to forfeitures shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the cumstoms laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that pur-

pose by the Secretary of the department in which the Coast Guard is operating.

ENFORCEMENT

SEC. 10. (a) GENERAL.—The provisions of this Act shall be enforced, together with regulations issued under this Act, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, and facilities of any other Federal agency in the performance of such duties.

(b) POWERS.—Any person duly authorized pursuant to subsection (a) of this section may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the contiguous fishery zone of the United States, or which he has reason to believe is fishing for anadromous species;

(2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person has committed an act prohibited by section 9(a) of this Act;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found onboard any fishing vessel or fishing-support vessel engaged in any act prohibited by section 9(a) of this Act.

(c) COURTS.—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act. Such court may issue all warrants or other process to the extent necessary or appropriate. In the case of Guam, such actions may be brought and such process issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all actions brought under this Act without regard to the amount in controversy or the citizenship of the parties.

DURATION OF ACT

SEC. 11. (a) EFFECTIVE DATE.—The provisions of section 4 of this Act shall become effective 90 days after the date of enactment of this Act. All other provisions of this Act shall become effective on the date of enactment.

(b) TERMINATION DATE.—The provisions of this Act shall expire and cease to be of any legal force and effect on such date as the Law of the Sea Treaty, or other comprehensive treaty with respect to fishery jurisdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 12. Except with respect to section 6 and section 9 of this Act, there are authorized to be appropriated for the purposes of this Act to the Secretary such sums as are necessary, not to exceed $4,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, and to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed $13,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO POSTPONE S. 4033 INDEFINITELY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 4033 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs, with hearings scheduled on the D-2 lands in Alaska, be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3639 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I have been notified by Mr. MONDALE that there will be no intention to proceed with the consideration of S. 3639, a bill to provide for the development and implementation programs for youth camp safety, during the remainder of this session because of the impossibility of getting action in the other body this year.

I ask unanimous consent that that bill be transferred to the calendar of "Subjects on the Table."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an additional period for the transaction of routine morning business, not to exceed 5 minutes, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF NELSON A. ROCKEFELLER TO BE VICE PRESIDENT OF THE UNITED STATES

Mr. BAKER. Mr. President, I am pleased to support the nomination of former Gov. Nelson Rockefeller to be Vice President of the United States.

I have known Nelson Rockefeller for many years. I have known him in his capacity as a distinguished Governor of a great State, as a functionary of the Republican Party, as a candidate for the Republican nomination for the Presidency. I know him to be a man of integrity, of initiative, and of energy. I believe that he will be an extraordinarily good Vice President of the United States, and I commend him to my colleagues for their support on the upcoming vote on this day, in this Chamber.

I could elaborate at some length on my evaluation of this man and his qualifications and competence to serve in the high position for which he has been chosen by the President of the United States. I can point out that Nelson Rockefeller comes from a distinguished American family whose philanthropy has extended to virtually every section of the country. We in Tennessee have a particularly fond recollection of the contributions of the Rockefeller family to the assembling of the Great Smoky Mountains National Park and the contribution to the people of the United States by that family.

I recall in 1968 when Governor Rockefeller called me on the telephone and indicated that he fully understood that he was not my choice to be the Republican Presidential nominee, but asked whether I would arrange for him to meet Republicans in my State to discuss his prospects and the possibility of finding support in the Volunteer State, which I agreed to do.

Governor Rockefeller arrived, and I was privileged to introduce him to the Republican State Executive Committee and to most of the so-called Republican establishment. I found him to be very generous in his appraisal of the political situation. He was unoffended by the fact that I believed that he did not have a single supporter in that group. But he felt then—and I think this is an important consideration in terms of his qualifications to serve as Vice President—that it was important that the Republican Party have a choice and that it should not become a party of rigid ideology; that it should have a free choice among a moderate, liberal, and conservative points of view.

I applaud him for that, because I believe that our two great national parties should be essentially nonideological and that they should encompass a broad spectrum of points of view ranging from the liberal to the conservative.

It was my pleasure then to present Governor Rockefeller to the Republican establishment in Tennessee and to hear his sincere remarks in behalf of his own candidacy.

As a man who possesses a broad and successful range of experience both in and out of government, former Governor Rockefeller should prove to be substantially helpful in his new role. Already a man of national prominence, the Vice President designate has become even better known to the Members of Congress and the American people since his nomination on August 20.

Mr. Rockefeller has undergone what has been probably the most excruciat-

ingly detailed examination of any Vice Presidential nominee in our Nation's history. Both the Senate and Rules Committee and the House Judiciary Committee have devoted a great deal of time to hearing personal testimony from the former Governor on the widest possible range of issues. In these public hearings, Nelson Rockefeller has responded with directness and good will.

In addition, a wealth of testimony has also been heard from Mr. Rockefeller's supporters and his adversaries. It would seem that every conceivable concern relating to his fitness to serve in the second highest office in the land has been addressed in the public hearings and in the press.

I think it is a tribute both to the Vice President designate and to the members of the Senate Rules Committee that his nomination has been ratified unanimously by that committee. I anticipate that the favorable action by the Rules Committee will be upheld in an overwhelming vote on the Senate floor.

Some opponents of the Rockefeller nomination outside Congress have urged Members to join them in opposition because, in their judgment, the nominee does not meet some standard of ideological purity or has not expressed agreement on some specific issue deemed of overriding importance.

It seems to me, however, that these are not the criteria that a nominee must meet. I suspect that, if perfect ideological compatibility were required, there might be as many names in contention as there are Members of this body. Indeed, President Ford solicited from the Members of the Senate and the House, from the Governors, and from the public, suggestions for filling this office. I think it is significant that the name of Nelson Rockefeller appeared conspicuously on a majority of such lists.

I believe that we should now proceed, and proceed promptly, to the confirmation of his nomination. I applaud the leadership of the Senate for ordering this vote this afternoon. I intend to support and to vote for the confirmation of the nominee.

The question remaining is a simple one: Does Nelson Rockefeller meet the qualifications for the Office of the Vice President as designated in the 25th amendment? I believe that an affirmative answer to that question is obvious.

Mr. President, I have grave reservations about the 25th amendment. I do not believe that it has worked well. I believe it should be changed, if not in fact repealed. Notwithstanding that, I believe that the requirements of the 25th amendment which are now the law of the land have been fully met and satisfied by the testimony of Nelson Rockefeller and other witnesses before the Committee on Rules and Administration of the Senate and the Judiciary Committee of the House of Representatives. I believe that former Governor Rockefeller has more than met the standards designated therein and that his past service indicates his potential to be of valuable assistance to our Nation in the years ahead. It is in the best interest of the entire country, then, that I urge the confirmation of Nelson Rockefeller's nomination to be Vice President of the United States.

I thank the leadership for giving me this opportunity to make these remarks.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974

The Senate continued with the consideration of the bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that Arthur Kuhl and David Keaney of the staff of the Committee on Foreign Relations be accorded the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1988, the Emergency Marine Fisheries Protection Act of 1974, be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. LONG be recognized for not to exceed 15 minutes to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF NELSON ROCKEFELLER

Mr. LONG. Mr. President, I have reviewed the hearings and the investigation of Nelson Rockefeller to be Vice President of the United States. After careful scrutiny, it is clear to me that this nominee has been examined as thoroughly and extensively as almost any nominee in the history of the country.

This has been one of the most extensive and thorough nomination hearings ever held. After such scrutiny, it is clear to me that the nominee is equal to the high standards demanded of the Vice President of the United States.

Because of the nominee's personality and involvement over many years in many aspects of public and private life, the hearings were necessarily more detailed, requiring the nominee himself to appear personally for 22 hours. I can think of no individual who could have withstood such an exhaustive inquiry more favorably than Nelson Rockefeller.

Nelson Rockefeller has served the State of New York and the Nation for almost 40 years. This is clear evidence of his executive ability and his qualifications for filling the second highest office in the land. Any man who can serve 15 years as the Governor of New York certainly has the executive qualities needed to be Vice President.

Throughout his years of dedicated service to the State of New York and this Nation, his broad range of acquired experiences uniquely qualify him for the office of Vice President.

Mr. President, I ask unanimous consent that a list of some of Mr. Rockefeller's accomplishments appear in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

As Governor of New York:

Expanded the State Univeristy to 72 campuses.

Proposed bond issues that built new parklands and state parks.

Instituted the first state financing for mass transportation.

Overhauled the state's welfare system for the first time in 20 years.

Increased the state police force and through a statewide prosecutor's office bore down on corruption in New York.

In medicine, he led the way for adoption of a state medical care program, created the bureau of heart disease, the birth defects institute, and two new state medical schools.

He created job development and authorities to provide low cost loans for business expansions and to induce business to locate and expand in low income areas.

In housing, his administration completed or started almost 90,000 units for low income families and eliminated discrimination in housing, employment, and public accommodations.

For senior citizens he created a state office for the aging including property tax reduction for the elderly citizen.

These are all vital areas of concern to the entire country and his record of hard work and accomplishments in these fields qualify his immediately to be Vice President.

In the international area:

He served under President Franklin Roosevelt as program director for the office of Coordination of Inter-American Affairs.

He later served as Assistant Secretary of State for American Republic Affairs.

He also served as Chairman of the Inter-American Development Commission which included all 21 American Republics.

In 1950 he was named Chairman of the International Development Advisory Board that developed the blue print for America's foreign assistance program.

Mr. LONG. Mr. President, it is unfortunate that some of our Members seem so obsessed with the wealth of Mr. Rockefeller. The assumption on the part of some is that a man can be too rich or too economically powerful to be fit for the Presidency or the Vice Presidency.

I think it would be well that we focus attention on some of the man's very fine contributions to public life and in the way in which he has used his wealth for the improvement of his Nation, his community, and his neighbors.

The privacy of his family has been invaded for the purpose of completely exploring his wealth.

Attention should now be focused on the quality of his public life, which is extensive.

The accomplishments of Nelson Rockefeller are extensive and impressive. And, it goes without saying that he had a fulfilling and highly successful career as a public servant.

We would be fortunate to have Nelson Rockefeller as our Vice President. The country certainly needs a Vice President in these crucial times of domestic and economic difficulties.

I hope that his confirmation can be accomplished expeditiously.

TAX HAVEN ASPECTS OF AMERICAN-OWNED SHIPPING OPERATED UNDER THE LIBERIAN FLAG

Mr. LONG. Mr. President, on Friday, November 29, 1974, there appeared in the Washington Star-News a very thoughtful article by James R. Polk, discussing the tax haven aspects of American-owned shipping operated under the Liberian flag. I would commend it to my colleagues.

It is especially significant because it comes to our attention at a time when the Nation generally feels that the international oil companies have been permitted to make excessive profits and escape with little or no tax payment to this Government on their properties abroad. What some of us have been hearing for many months now is that a great deal of so-called obscene profits of the international oil companies are being sheltered in their foreign shipping companies which are separately chartered under separate flations and separate corporations in some cases.

At a time when American labor is fighting for the privilege of a mere handful of jobs on some of the tankers bringing oil to America, it will arouse resentment to learn that the most privileged people on Earth, the international jet set and the international wet set—those who spend more time in bathing suits than they do in business clothes—are permitted by this Nation to move their money around from one tax haven to another, paying no income tax anywhere, hiring labor under virtual slave conditions, while screaming loudly about subsidies any time an American labor man asks for a job.

I have lived long enough to learn that there are usually two sides to an argument. Nevertheless, I must confess I have great difficulty in seeing why those who are privileged to export capital produced by hard-working American labor, hiring their labor in the famine-stricken nations of Asia and Africa at the going wage paid in those countries, should not at some point pay some reasonable amount of taxes to some government somewhere. Senators will be interested to learn that the Liberian merchant marine is being operated out of a building across the street from the White House. They may be somewhat surprised to find that the Liberian merchant marine has been represented far more effectively in the White House and the State Department than the American merchant marine.

The Americans who own the Liberian merchant marine are people about whom we should learn a great deal more.

I ask unanimous consent that the article to which I refer be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOOPHOLES BENEFIT U.S. SHIPPING: BANK HERE RUNS LIBERIAN TAX HAVEN

(By James R. Polk)

A Washington-based bank has a little-known, long-term concession to operate a major tax haven for American-owned shipping in the African coastal nation of Liberia.

The giants of the U.S. oil industry sail many of their tankers under the flag of Liberia to escape income taxes through loopholes on both sides of the Atlantic.

The maritime administration of that African country is run, in effect, from an 11th-floor office looking down on the White House from the International Bank's building at 1701 Pennsylvania Ave. NW.

The International Bank Ltd., a parent of the First National Bank of Washington, is a financial chain owning most of the stock of The International Trust Co. of Liberia, which not only handles the ship registration in that nation, but also acts as the tax collector.

Fred T. Lininger, a polite, white-haired American financier who is a senior vice president of International Bank, carries a dual title: he is also, by long-term appointment, the senior deputy maritime commissioner for Liberia.

The International Bank subsidiary's contract to serve as the Maritime Administration in the African tax shelter is apparently lucrative. Its income depends on the level of ship registrations—in effect, the bank gets a cut of the tonnage tax payments—and accounts for a substantial piece of all the bank's foreign earnings.

The tax haven in Liberia exists because U.S. law doesn't cover overseas earnings in the shipping industry by foreign-based subsidiaries of American firms.

As a result, a dozen or more oil companies have created foreign offshoots to own tankers registered in Liberia to carry their crude on the high seas.

At last count by the U.S. Maritime Administration, American-controlled firms had 161 tankers flying the flag of Liberia, with another 79 such tankers under construction.

The tanker "Statue of Liberty" is actually a Liberian vessel, owned by an American oil company. So is the "J. Paul Getty" and the "Phillips Oklahoma" and the "Esso Berlin."

Two proposals now pending on Capitol Hill, however, threaten this tax shelter.

One change in the tax reform [illegible] repeal the exemption for overseas [illegible] profits and require that the earnings be reinvested in the same foreign operations to elude taxation.

The effect of the repeal, if passed, is still rather foggy. One staff expert on Capitol Hill said, "I don't think most of the members fully grasped it."

The second proposal poses a more serious peril to the tax shelter. A cargo bill, backed by shipping unions and American shipyards, would require that 30 percent of the oil imported into this country be carried on U.S. tankers.

That bill, bitterly fought by American oil companies, already has passed both houses, and only Senate approval of a conference committee report is needed next week before the measure goes to the White House.

Asked about the bill's impact on tanker registrations in Liberia, Lininger said, "That's just hard to foresee. I don't see how it could help. But how much it will hurt eventually, I don't know."

The Liberian tax operation has been profitable for International Bank for a number of years. Lininger declined to say how profitable, but he did say, "Frankly, it's been an extremely satisfactory and worthwhile investment."

A financial filing by International Bank with the Securities and Exchange Commission includes this statement:

"The International Trust Company of Liberia acts as the maritime administrator of Liberia, which activity is the major source of its income. . . . The total income of the International Trust Company constitutes a substantial portion of the total income of all of the foreign subsidiary banks."

How much is a substantial portion? That isn't answered. But the total foreign income and earnings for International Bank's overseas properties last year was listed at just under $2 million.

However, this is still not a big cut of all of International Bank's profits. The company is a major owner of Financial General Bankshares, a local banking chain which controls the First National Bank of Washington, Union Trust Company, Arlington Trust Company, and Clarendon Bank & Trust, as well as the Bank of Buffalo and the National Bank of Georgia.

Because of the tax advantages, Liberia, which is located on the western curve of Africa, has the largest merchant fleet in the World. Steel, sugar and aluminum companies, as well as private shipping tycoons, join the oil giants in registering vessels under that country's flag.

The International Bank operation provides the services for firms to set up foreign corporations in Liberia, administers the maritime law there, and handles the annual ship taxes and other assessments.

"They collect it as the government's agent," Lininger said.

In addition to the initial registration fee, Liberia has an annual tax of a dime per ton on a ship's cargo capacity. However, a tanker bringing oil from the Middle East a half-dozen times a year would pay three times that amount in American port fees alone.

The big advantage is found in income taxes. Liberia doesn't tax the earnings of its ships. And there is a large loophole in the U.S. income tax.

It works this way: If the profits which the American oil companies pay their own foreign shipping subsidiaries are left overseas, they avoid U.S. taxes because of a specific 1962 exemption for such shipping operations.

Even if the profits are brought back into this country, they can be sheltered by the foreign tax credit. Most of the royalties which American companies pay the Middle East

In that connection, a current survey of young people made by the Rand Youth Poll—which has monitored trends among those in their teens, college students and young married couples for 22 years—is worth attention.

Almost three in four—72 percent of the teen-agers polled—regard high spending as something that is actually good for the country. They see no reason for stinting so long as they have the means to buy.

Of those polled, 78 percent consider themselves and their friends wasteful, but it does not seem to bother them; 74 percent say the subject of thrift is seldom referred to in their homes or schools; 64 percent of them do not look upon conservation and thrift as matters of much importance.

Such reactions are not particularly surprising when you stop to consider that the average annual per capita spending among teen-agers has gone up from $278 in 1950 to more than $800 estimated for 1974.

Eighty-six percent of the teen-agers included in the survey (which, by the way, was a nationwide sampling) feel that a higher and higher standard of living—which must define as more and more possessions—is primary goal of the American system.

Sixty-three percent consider disruptions in the production of goods and dislocations in supply and demand as temporary. They do not believe there are serious shortages in the U.S. Of those interviewed, 83 percent say they have always regarded the nation's natural resources as inexhaustible.

Nearly all of those surveyed know something about the depression years of the '30s. But 62 percent are convinced it can never happen again. They speak of such built-in "stabilizers" as Social Security, unemployment compensation and insured bank accounts.

In explaining why they don't put much stock in saving money, 54 percent cite the large number of Government and private pension systems, profit sharing by companies and health programs as assurance that their retirement years have been comfortably provided for.

Analyzing his figures, the president of the Youth Poll, Lester Rand, concluded:

"Thrift as a virtue went out of style among this nation's youth as the spending booms of the '50s, '60s and early '70s accelerated. The old proverb, 'a penny saved is a penny earned' has been completely outmoded.

"Young people easily justify their over-all wastefulness by claiming that it contributes to greater consumption and therefore benefits the economy as a whole."

In the affluent days before the Great Depression, a distinguished American poet, the late Conrad Aiken, wrote:

All lovely things will have an ending,
All lovely things will fade and die,
And youth, that's now so bravely spending,
Will beg a penny by and by.

Subsequent developments gave his words the ring of prophecy at the time they were written. Now the results of the Rand Poll suggest that in the minds of many young people the prophetic verse has become hollow.

They seem to be convinced that the piper has been paid in full, and in advance.

RISING CRIME RATE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DERWINSKI. Mr. Speaker, the public is justifiably concerned and frustrated over the rising crime rate and the difficulties that the police face in defending the innocent person from criminal attack.

During the recess, columnist Vernon Jarrett of the Chicago Tribune very properly analyzed this subject of urban crime in his penetrating article of October 23. The column follows:

YOU CAN'T JUSTIFY CRIME OF MURDER

(By Vernon Jarrett)

I don't care how poor, or how uneducated, or how ill-housed the murderer may be, society must never accept poverty or functional illiteracy as a justification for the willful, callous slaying of innocent people.

Underscore that word "justification" because what may begin as a sensitive, logical, humane explanation of a crime-producing situation often concludes as a tacit approval of murder.

I feel deeply and resentful about that sort of confused "socioeconomic analysis" because I have witnessed too many instances where the murderer is given more sympathy and understanding than his brutalized victim.

This is, indeed, a strange phenomenon. For an example, a black teen-age product of the ghetto can take a gun and blow a hole through the head of a black father, mother, or child—also a product of the ghetto—and he immediately finds that he has friends from the upper strata of society.

Not only will the brutality of his crime become atomized and lost in the ozone of social analysis, the criminal may find that watchdog committees may be formed to insist that he and others like him get fair treatment should he be imprisoned.

And more than likely, somewhere there is a group of "concerned citizens" who will help arrange for him to get an early parole and a speedy rehabilitation, and maybe a good job—in some instances drawing salaries higher than those of equal competence who never killed a fly.

I'm all for fair and humane treatment for prisoners, and I consider rehabilitation programs a must. I contribute to and shall continue to participate in special educational programs for prisoners.

But I think it remarkable that I rarely find any committees formed or any programs designed to help the victim of criminal assault and murder.

However, I have heard many reports on the plight of parents whose children were assassinated in street gang warfare; parents of maimed child victims who didn't die immediately; those parents who didn't have the money to even make a daily visit to the county hospital by public transportation; parents who had to borrow to buy burial space and a cheap casket.

They become the statistics of urban sociology while the killer is humanized.

At the same time there has been established a perverted system of assessing the seriousness of ghetto-related murders. Even in the eyes of some black spokesmen, the life of a black person murdered by a white person—particularly a cop—sudden becomes more valuable than a person killed by a black.

By the same token, there are white citizens who become disturbed by the "viciousness" of a murder of a white by a black gunman but are not truly disturbed when a white truck driver is murdered by a fellow white trucker in a union strike dispute.

And in other fuzzy minds, the seriousness of an assault depends upon the social status of the victim. I have heard self-appointed analysts of the ghetto speak lightly of criminal acts if the perpetrator is poor and the victim lives in a middle-class neighborhood.

These distorted assessments of murder run counter to the black tradition. Despite what the mythmakers write and say, the black tradition is one of resistance to destruction—particularly self-destruction. That resistance can be traced to a preoccupation with the threat of racial extinction which forever presented itself in a multiplicity of forms, including poverty.

But since poverty, like illiteracy, was so widespread among blacks, it was not accepted as an excuse for self-destruction.

As a Southern-reared black youth I recall vividly how black people reacted to death—especially untimely and senseless deaths. Blacks could accept death and rationalize its value. But one thing they never rationalize its value. But one thing they never rationalized or forgave: murder, anybody's murder.

I do not choose to reject that tradition. It is needed now more than ever.

ATHLETES HONORED BY McKEESPORT GROUP

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. GAYDOS. Mr. Speaker, each year a McKeesport organization honors selected individuals for their contribution to the world of sports. The testimonial, sponsored by the McKeesport Athletic Sports Association, is one of the most popular community events in the area for it gives the stars of yesteryear an opportunity to renew old friendships in an evening of fellowship.

I was privileged to be one of the guest speakers at the 1974 banquet, sharing the program with McKessport Mayor John Pribanic; Richard Bowen, McKeesport High School football coach; Samuel R. Vidnovic and Steve Lesko, toastmasters, and Father Robert Pietrzynski, pastor of Our Lady of Perpetual Help Church in Natrona, Pa.

Honored by M.A.S.A. for 1974 were:

McKeesport National Bank Awards—Howard "Paddy" Peckman, Eugene "Lefty" Hollar, Nick Butcher and Robert Ludwick, baseball; Joe Bazzone and Chuck "Irish" McLaughlin, boxing; William Laughlin, Vic Dietrich and Bob Ward, football; George "Ganzy" Benedict, Helen Gaydos Murray and Millie Gaydos Barry, all sports; Andrew Toth, humanitarian; Herman Levine, sponsorship; Morris "Mushy" Gerendash, promoter; Eddie Rack, golf; Dan Kelly, soccer; Duane Dowden, swimming; John "Dink" Ulm, cartoonist; Bobby Lloyd and Dominick "Cookie" Donato, softball; Jules "Pro" Micklo, organizer, and Rudy Wheaton, bowling.

Joe Odorcich District 15, U.S.W.A. Awards—George "Pete" Goshio, all sports; Sam "Apples" Clay, football; Bill Callaway, basketball; Joe "Goofer" Vukmanic, official; Russ Hoffman, football and softball; John Sullivan, promoter; Tom Manning, sponsor; Pete Damarsky, mushball; Stan Ukasik, baseball; Joe Lupo, youth recreation; Wilburt "Webby" Klein, softball; John "Honus" Lux, bowling, and Dave Cullen, sportsman.

Julius J. Lenart High School Awards—Dave Farina, baseball and basketball; Mark Yazwa, baseball and football; Rich

Hofstetter, swimming; Joseph Gaydos Congressional Award—Elroy Face, former ace relief pitcher for the Pittsburg Pirates; Al Duffy Daily News Baseball League Award—Neal Mechling; Merrill Granger American Legion Baseball Award—Dave Farina; Ellis Morgan Special Award—Gerella's Gorillas, fan club for Roy Gerella, star placement kicker for the Pittsburgh Steelers; Mike Newman McKeesport Boy's League Award—Danny Wertz, and M.A.S.A. Golden Quill Award—Thomas D. Mansfield, publisher of the Daily News.

Mr. Speaker, it is with great pleasure I call the athletic achievements of these gentlemen to the attention of my colleagues in the Congress of the United States:

THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 20, 1974

Mr. METCALF. Mr. President, as our representatives prepare for the second session of the Third United Nations Conference on the Law of the Sea, which convenes in Geneva on March 17, we should note that a single thread runs through preparatory meetings and the first session in Caracas this past summer.

That thread is that mobility of our defense forces is our No. 1 priority as we negotiate with other nations on the broad question: Who owns, or is responsible for, two-thirds of Earth, the oceans, and the land beneath?

That mobility is our No. 1 priority is a matter of record. At page A30 of the Washington Post of August 30, 1974, the chief of our negotiating team, U.S. Special Ambassador John R. Stevenson, was quoted as saying:

> The No. 1 priority is the mobility of our naval and air forces and the importance of retaining our nuclear deterrent.

Mr. President, I ask unanimous consent that this newsstory be printed in the RECORD.

There being no objection, the news story was ordered to be printed in the RECORD, as follows:

SEA-LAW CONFERENCE CLOSES IN DEADLOCK

(By John Virtue)

CARACAS, August 29.—The third U.N. Sea-Law Conference ended in deadlock today and the conference president said there was little hope of drafting a new treaty governing the use of the sea at a follow-up spring session in Geneva.

Conference President Hamilton S. Amerasinghe of Sri Lanka indicated that as many as three more sessions might be needed by the 148 participating nations to obtain a signed treaty in 1975.

"There has so far been no agreement on any final text on any single subject or issue," Amerasinghe said in closing the conference, which ended its 10-week session deadlocked on the four key issues needed for a treaty to replace the current 17th-century sea code.

"I am convinced, given the best will in the world, it will be physically impossible for us to finish the drafting of the treaty by the end of the spring session in 1975," he said later at a press conference.

Earlier this week, the conference agreed to reconvene in Geneva March 17 to May 3 and then to return to Venezuela in midsummer for signing a treaty, if one is negotiated by then. Amerasinghe indicated, however, that another session might have to be squeezed in between Geneva and Caracas.

While most delegates said publicly that the conference had achieved the expected, they privately expressed disappointment at the slow progress and the gulf between the positions of the rich industrial nations and the poor developing ones.

The devision between the delegations know no ideological bounds.

The Unted States and the Soviet Union were the leaders of the industrial nations, and China backed the aspirations of right-wing South American military dictatorships.

The conference became deadlocked on four key issues:

Territorial limits: the developing nations, led by Ecuador and Peru, insist on virtual sovereign control over all activities within 200 miles of their coasts. The industrial nations, led by the United States and the Soviet Union, favor giving coastal states full control over a 12-mile limit but opening up a further 188-mile economic zone to fishing and scientific research by other nations.

Deep sea mining: The developing nations want preferential treatment in mining cobalt, copper nickel and other deposits through a strong international authority, which would set its own rules and decide who mined where. The industrial nations want the rules written into the treaty.

Pollution control: The developing nations want mild controls for themselves and hard ones for the industrialized nations, who they say polluted while achieving their development. The industrial nations want uniform international standards.

Straits passage: This is the key Soviet and U.S. issue. Both want freedom of passage for their warships and merchant fleets through the more than 100 straits in the world. The straits nations, most of them developing once, want control.

"The No. 1 priority is the mobility of our naval and air forces and the importance of retaining our nuclear deterrent," said U.S. Special Ambassador John R. Stevenson recently.

Sen. Claiborne Pell (D-R.I.), here briefly for the conference, predicted that the Senate would not ratify a treaty that did not guarantee free passage.

Stevenson, in a wind-up news conference, expressed confidence that a sea treaty could be signed in Caracas if enough hard work is done in Geneva. "There is no cause for billing the conference a failure," he said.

"We certainly did not come to Caracas expecting to go back with a signed treaty," said Tanzania's J. S. Warioba, expressing the feeling of many delegates, "But we had certainly come expecting to achieve more than we have."

Amerasingle cautioned the nations agalost taking any unilateral action before a treaty is negotiated. In thus, he echoed Stevenson, who warned that any extension of U.S. fishing limits by the Senate could touch off unilateral action by otber nations.

There are several bills in Congress to extend the fishing limit to 200 miles, a concept officially opposed by the United States at the conference.

Ecuador and Peru, the hardliners among the developing nations, claimed a 200-mile limit in 1952, touching off the "tuna war" with the United States. Some 200 U.S. fishing trawlers, most of them from San Diego, have been seized during the past 10 years in the disputed waters.

The two South American nations said their claim was simply an extension of the Truman Doctrine, under which the United States in 1945 claimed control over the seabed resources of the continental shelf, which extends beyond 200 miles from the coast in some parts of the Atlantic. The two Pacific nations have virtually no shelf, so they claimed a 200-mile limit instead.

Mr. METCALF. Mr. President, the Defense Department has based at least part of its case on a claim that extension of the territorial seas would close more than 100 straits around the world to vessels vital to defense or commerce.

There is evidence that this claim is questionable.

The evidence is in the hearing record of the Senate Committee on Armed Services early last month on S. 1988, the bill to extend the fishery resource jurisdiction of the United States to 200 miles.

It is in a statement by Dr. Frank E. Carlton, president of the National Coalition for Marine Conservation. Dr. Carlton made the point that, of the straits which might be closed by a 12-mile territorial sea, only 16 "could have importance and that nine of those are either nonessential or fall within the territory of our military allies."

Dr. Carlton's statement continues:

> Of the remaining seven, all but three either offer no significant targeting advantage or are too shallow (Malacca) or dangerous to approach submerged (Sunda).

To Dr. Carlton's statement was appended a paper by Dr. Robert E. Osgood, dean, the John Hopkins School of Advanced International Studies, Washington, D.C., and director of the Johns Hopkins ocean policy project.

I commend Dr. Carlton's statement and Dr. Osgood's paper to my colleagues who are sincerely interested in this complex subject. I ask unanimous consent that both be printed in the RECORD at this point.

There being no objection, the statement and paper were ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. FRANK E. CARLTON

I am Dr. Frank E. Carlton, President of the National Coalition for Marine Conservation, Inc. The Coalition is a national conservation organization committed to the promotion of rational politics and legislation as it affects ocean use.

The purpose of this paper is to demonstrate that there are alternative views to the somewhat adamant and intractable opposition to immediate passage of S. 1988 expressed by the Departments of State and Defense. Information for this statement is restricted to unclassified material immediately available to the public, e.g., the SIPRI Yearbook of World Armaments published by the Stockholm International Peace Research Institute, Jane's Fighting Ships, 1973–74, Jane's Weapons System's 1972–73 and the annual Military Balances, published by the International Institute of Strategic Studies. Specific rebuttal to certain Defense Department arguments relies heavily on a recent article by Dr. Robert E. Osgood, Dean of Johns Hopkins School of Advanced International Studies in Washington, D.C. entitled "U.S. Security Interests and Ocean Law" published in Ocean Development and International Law, the Journal of Marine Affairs, Volume II, No. 1, Spring, 1974. Specific comments with regard to State Department arguments draw heavily on an article by David C. Loring entitled "The United States-Peruvian Fisheries Dispute" which appeared in the Stanford Law Review, Volume XXIII, February, 1971. For the purposes of this dis-

cussion, comments will be limited to the context of International political and strategic considerations; germane fisheries issues will not be considered. The specific concern of this statement will address points previously raised by Defense and State Department representatives and which will undoubtedly be reiterated before the Senate Arms Services Committee.

State Department arguments may be summarized in four general points. Immediate passage of S. 1988 would:

(1) Increase international political tension,

(2) Deter a successful outcome of LOSC'75,

(3) Be detrimental to the long range interest of "all" U.S. fishery interests, and

(4) Be a violation of International law,

Defense Department arguments may be summarized in three basic points. Immediate passage of S. 1988 would:

(1) Add to "creeping jurisdiction",

(2) Cause the loss of significant sea and air mobility necessary to our defense,

(3) Lead to an International chaos of unilateral action and reaction.

The fundamental thrust of a rebuttal to these allegations can be expressed in three general observations:

(1) the strategic necessities cited by Defense have been vastly overstated,

(2) increase in international political tensions, doubtful outcome of LOSC '75 and increasing complexity of international relations are realities, already in a state of active evolution, which will probably occur in the same temporal context regardless of this (S. 1988) or other legislation enacted by the United States, and,

(3) the conclusion that should follow from points "1" and "2" is that certain rigidities in our foreign policies and military attitudes have demonstrably caused the U.S. to underestimate the vital importance of domestic and International changes in her economic and military capacity to be a global power and to continue her position as a leader in international politics, indicating that fundamental reassessment and change in these areas is necessary to maximizing the probabilities and potentials for continued world peace.

Defense Department officials have stated that U.S. security requires free transient through straits and the right of military overflight. It must be pointed out that the distinction is not between the terms "free" and "innocent" in so far as strategic considerations are concerned. In reality the relevant comparison must be between "free" and "secret". Defense contends that the invulnerability of U.S. SSBN's and their indispendable role to our defense depends on their legal *right* to secret passage. Dr. Osgood's scholarly examination of the 121 international straits listed by the Department of State that would be nationalized by a 12 mile territorial sea demonstrates that there are only 16 that could have importance and that nine of those are either nonessential or fall within the territory of our military allies. Of the remaining seven, all but three either offer no significant targeting advantage or are too shallow (Malacca) or dangerous to approach submerged (Sunda). Dr. Osgood's analysis reveals that only Gibraltar and two Indonesian straits, Ombai-Wetar and Lombak, are strategically significant areas which might be politically questionable if a 12 mile territorial boundary were established. Present political relations with Indonesia as well as Spain and Morocco are complex and will undoubtedly become more so, but closure of the Indonesian straits would not prevent the submerged passage of our submarines into the Indian Ocean. Passage through Gibraltar is only necessary to the physical interruption of surface traffic through the Mediterranean. On a nuclear deterrent basis the entire USSR can be targeted from the Atlantic and Pacific Oceans and the Arabian Sea.

Dr. Osgood's studies clearly demonstrate that the physical and political necessity of free transient through international straits is not supported by objective information and should certainly not be considered a nonnegotiable item inhibiting international agreement on ocean use.

Further detailed analysis of other relevant considerations:

To what extent would surface transient impair in vulnerability of SSBN's?

Would detection and destruction of United States' SSBN's after passage through straits significantly alter U.S. second strike capacity?

Will the Trident system affect our need to use the international straits in question?

All lead to the conclusion that the absence of "free transient" through straits would not seriously weaken the contribution of U.S. SSBN fleets to our strategic nuclear deterrent.

Aside from this line of reasoning, it must be further pointed out that logic as well as experience indicates that the concept of innocent passage is actually related to commercial vessels on grounds of navigations safety and anti-pollution. If there is any real question that the transient of a warship might not be innocent, one must wonder why any nation would sign a treaty permitting unimpeded passage, or conversely, how such an agreement would deter any nation from "necessary" military action against such passage? Obviously, strategic significance is related to a capacity to place SSBN's in secret positions which Dr. Osgood's analysis demonstrates does not depend physically, or certainly legally, upon "free transient". Thus, the core of the Defense Department's position, as well as the forced extension of their argument to a fanciful relationship between a 200 mile economic zone and passage through international straits, brings grave question to bear upon the validity of their position.

On the other hand, a relevant positive consideration is that if restrictions of innocent passage were imposed upon the world at large they would in fact work significantly greater hardships upon Russia's defensive and aggressive capacities than upon the U.S.

Rational and qualified answers to the various State Department assertions with regard to the deleterious effects of immediate passage of S. 1988 have been presented before other Congressional committees and are presently available. Detailed reiteration of these specifics are therefore neither necessary nor appropriate; however, it is vital to point out that attitudes underlying the position of the Departments of State and Defense, which now dicate their opposition to extend jurisdiction, manifests that same attitude and rigidity which has characterized U.S. performance in international relationships for the last 25 years and which has materially contributed to the difficulties the U.S. faces today. The record of this performance does not inspire confidence in the ability of this country to deal wisely and fairly with regional conflicts and political confrontations. The 200 mile issue itself is an excellent example of the United State's steadfast opposition to a concept and physical reality that will shortly become the accepted world norm. The Defense Department's archaic and illusory attitudes toward the necessity of maximum mobility to maintain our defensive security and the Department of State's insistence to underrate the importance of harmony with less developed coastal nations, have been related to and supplied further impetus toward th total problem of decline in the United State's capacity to maintain a global posture as an economic and political force and its acceptance by other nations as a world leader.

The clear schism between the realities of our domestic priorities and our rapidly changing International capacities and responsibilities necessitate *change*. The traditional attitudes and methods that created the Peruvian fisheries dispute remain very much in effect to this date. In discussing the Peruvian fisheries issue David Loring states, "the background and growth of the dispute . . . can be attributed largely to a series of mistakes by the United States."

In asking the Senate Arms Committee not to support the position of the Department of Defense and State we recognize the catacysmic disruption with historical precedent such an event would require. Nevertheless, a change of this order is necessary to the reality of maximizing any eventual potential for continued world peace. The National Advisory Committee on Oceans and Atmosphere's third annual report dated June 28, 1974 stated in its foreword, "This year NACOAA worked with the consciousness that our society may well be on the threshold of a *major discontinuity in human history*—from a world in which natural resources such as food and energy, and . . . and the regenitive capacity . . . seem to exceed effective demands, we appear to be moving toward a state of affairs in which consumption and utilization of vital resources are generating new stresses and strains at home and abroad. To contain the resulted instabilities we must respond to unprecedented demands on our capacities to manage natural resources."

It is my respectful contention that these considerations are more vital to our national interest than those unsupported allegations made by the Department of State and Defense and do not, in fact, jeopardize either our international relations or our strategic defense. To the contrary, the Congress should recognize that the continued threat of passage of S. 1988 has been one of the more positive and constructive forces impinging upon international negotiations on ocean use. It must remain for the Congress to forcefully counteract a long tradition of policies and practices which have demonstratably worsened domestic and international problems. Only the Congress itself can bring the necessary forces to bear to insure the necessary changes. I earnestly entreat the committee's consideration of these alternatives.

U.S. Security Interests in Ocean Law

(By Robert E. Osgood)

Abstract—This paper discusses the need for reassessing U.S. security interests in the developing laws and practices concerning the use of ocean space. The nature of these security interests is identified and their importance is weighed in terms of U.S. foreign policy interests and the requirements for maintaining those interests. A projection is made of the international political context within which the U.S. must act over the next decade. Estimates are made of the effects of different ocean regimes on U.S. strategic nuclear interests and other security interests. Conclusions are offered concerning, from the standpoint of U.S. security interests, the desirability and feasibility of resolving various ocean jurisdictional issues by means of the projected law of the sea treaty.

1. The need for reassessment

There is generally a presumption in favor of the primacy of security interests in a nation's foreign policy. U.S. ocean policy is no exception, but the conception of security underlying this policy has greatly expanded from the apparent emphasis on military mobility in the period leading to the U.S. Draft Seabeds Treaty of 1970 to include a major concern with unhampered commercial navigation in the present period before the prospective international Law of the Sea Conference in 1974.

Actually, what appears to the outsider as the initial dominance of avowed military needs—particularly the need for "free transit," as opposed to merely "innocent pas-

sage," through international straits—was always a bit misleading. The strong and conspicuous role of the Department of Defense in 1968 and 1970, when the formulation of U.S. ocean policy could still be powerfully affected by a single forceful individual in a key position in that agency, and the tactical convenience of explaining and justifying complicated political issues in terms of military security needs, was compelling, and tended to overshadow a more fundamental and pervasive objective of all the individuals and groups in the government who were most influential in the formulation of the Draft Seabeds Treaty. This objective was to bring a vast area of growing competition and potentially chronic conflict under the control of international law and international institutions before it was too late. Therefore, in the State Department, the National Security Council, and, for that matter, in the Department of Defense as well, the achievement of an international treaty establishing a narrow continental shelf boundary, international restrictions on the exploitation of ocean resources, a share of revenues from exploitation for economic development, and international regulatory machinery was seen as serving America's broadest interest in maintaining a congenial, relatively peaceful international environment. The fact that the narrower interests of DOD were deemed as corresponding to the larger interest of the United States in preventing an era of international conflict, revolving around competing claims to ocean territory and resources, was a happy coincidence.

As the prospective 1974 United Nations Law of the Sea Conference approaches, however, some ocean experts outside the government and some parts of the expanded ocean policy community inside the government have come to think that this coincidence is no longer so happy. They fear that DOD has got itself locked into an excessively rigid position on free transit through straits, which is not indispensable to American security but which may jeopardize the achievement of the kind of minimal international order that is essential to America's broader ocean interests. The prevailing official position, however, is that the principle of unimpeded passage through straits has become more important than ever because of the growing potential threat to petroleum and other commercial transit, given the prospect of "subjective" interpretations of innocent passage; and that, moreover, in the intricate pattern of international give and take that characterizes the bargaining and negotiating process on ocean law, unwavering U.S. commitment to free transit strengthens rather than weakens the prospect of achieving a useful comprehensive and near-universal law of the sea treaty.

In forecasting the outcome of the delicately balanced bargaining and negotiating on law of the sea issues, even the experts inside the government must rely on reasoned conjecture about the essentially inarticulable dynamics of a complex political process, and outsiders are at a disadvantage in judging the fast-moving state of the game. But on the nature of American security interests at stake in ocean law it is possible to construct an overview that may at least show the full range of these interests and suggest some priorities among them. As in the assessment of most security issues, lack of access to classified data is much less important than one's perspective on the political significance of well-known events and developments open to public scrutiny. From this perspective I have undertaken an assessment of U.S. security interests at stake in the developing laws and practices concerning the use of ocean space.[1]

Footnotes at end of article.

The amount of technical detail involved in assessing the U.S. military security interests in ocean regimes is disproportionate to the relative importance of strictly military considerations. The thesis presented here conforms to the now conventional view that the most important security interests at stake in the law of the sea treaty are much broader than purely military interests. The policy question I wish to illuminate is whether the official U.S. position may jeopardize the broader interests in attempting to protect the narrower ones or whether, on the other hand, as the top U.S. ocean officials maintain, the law of the sea provisions intended to protect U.S. military interests (particularly, free transit) are indispensable in serving the broader interests (particularly, unimpeded passage of petroleum shipping) as well.

2. U.S. OCEAN SECURITY INTERESTS

In 1970 U.S. security interests in the use of the ocean were articulated largely in terms of naval mobility, and the legal requirements of mobility were formulated largely in terms of "free transit" through international straits. A number of these straits would become territorial waters permitting only "innocent passage" for American warships if, as expected, a twelve-mile territorial sea boundary were embodied in the new international law of the sea treaty that the United States was committed to achieve. More narrowly still, the advantage of free transit over innocent passage was defined largely in terms of the maintenance of American strategic nuclear capabilities through the unannounced underwater passage of nuclear-powered submarines carrying nuclear missiles (SSBNs). Less emphasized in public statements were three other security interests:

(a) Most important among these was the limitation of territorial sea boundaries, which were seen to be in danger of expanding far beyond twelve miles, up to 200 miles, under the influence of Latin American boundary claims, the assertion of anti-pollution zones (as by Canada), and the process of "creeping jurisdiction" that would extend the assertion of anti-pollution and resource-exploitation zones to claims of territorial sovereignty.

(b) Seldom articulated in public was the right of military overflight (to which not even innocent passage applies) over key international straits.

(c) Not mentioned at all but, one must logically surmise, of some significance, was the right to emplace anti-submarine listening devices on the continental shelf.

Whatever may be said—on tactical-bureaucratic as well as substantive policy grounds—for the seeming priority of military security interests at the time, subsequent developments in the international environment affecting the law of the sea treaty and American ocean interests have called for a reassessment of U.S. ocean security interests in a larger framework of time and circumstances. In this larger framework, one can see that the United States needs to use four zones of ocean space—the seabed, subsurface, surface and superadjacent air—in order to support four kinds of functions that enable the United States to sustain important domestic and foreign interests:

(a) The maintenance of an adequate strategic nuclear capability in relation to the Soviet capability.

(b) The maintenance of an adequate capacity to project American forces overseas in limited wars.[2]

(c) The maintenance of adequate intelligence and military surveillance capabilities.

(d) The protection in peacetime of U.S. citizens, commerce, access to critical resources, and a variety of specific policy objectives overseas.

These functions can be regarded as components of U.S. national security insofar as they support American military security, important external interests, and the welfare of American citizens abroad and at home. This is a broad and rather amorphous definition of security, since the objects to be secured go far beyond the territorial integrity of the United States itself. But the definition is in accord with the tremendous postwar expansion of the American conception of national security beyond the traditional core values to encompass the security of allies, a wide range of foreign commitments and other concerns, and an international environmental environment congenial to the protection of these interests. To be sure, the nation is moving toward a more limited and selective interpretation of its security interests in its current phase of moderate retrenchment and introversion, particularly insofar as these interests require the use of armed force. But having acquired global commitments as the dominant counterpoise to the rival superpower, the United States is not about to revert to its restricted pre-World War II conception of national security.

3. THE FOREIGN POLICY CONTEXT

One's assessment of the importance of these various security functions depends, first, upon one's estimate of the impact of the changing international environment on America's vital foreign interests and on the requirements of maintaining these interests against possible threats to them. Enough time has now passed since the announcement of the Nixon Doctrine, the American withdrawal from the Vietnam war, and the rapprochement with China to make some reasonably confident, although necessarily fallible, conjectures about the nature of American security policy and its international environment over the next decade.

It is now clear that the foreign policy instituted and consolidated by the Nixon administration looks toward the maintenance of the U.S. position as a superpower with global interests, global political/military commitments, and global influence, but at a moderated level of expense and diminished direct (especially military) involvement. This posture can be described as retrenchment without disengagement.[3] Toward this end, the first foreign concern of the U.S. government is to orchestrate a global *modus vivendi* of interlinked agreements and understandings with the next strongest and potentially most dangerous State in the world: the USSR Diplomatically and politically, it seeks to promote this aim through approachment with the Peoples Republic of China, the normalization and stabilization of relations between the two Germanys, the control of superpower competition in the less developed Third World, and the insulation of detente from the superpowers' involvements in this area. Economically, it seeks to promote the global *modus vivendi* through the transfer of capital and agricultural goods to the Soviet Union in order to sustain a Soviet policy and regime committed to detente. Militarily, it aims to undergird the global *modus vivendi* with stabilization of the U.S.-Soviet military balance and moderation of the arms competition through mutually acknowledged strategic parity codified in SALT and, more problematically, with mutually agreed limitations on European forces, coupled with joint opposition to the emergence of new independent national nuclear forces.

The Nixon administration's second concern is to reconstruct its relations with America's major allies—the NATO countries and Japan—so as to give them a compelling interest in participating in the new detente relationships with the Soviet Union and the People's Republic of China on somewhat revised terms: greater diplomatic independence and initiative, accommodation with the United States of increasingly divergent trade and monetary interests, and increased con-

tribution to collective defense under continuing preponderant American management.

As for the so-called Third World of the largely new and poor countries, which scarcely five years ago was thought to be the decisive arena of the Cold War, the Nixon administration hopes to lower America's profile by leaving the welfare and security of developing countries primarily to their own individual and collective efforts of self-help. Having reduced the official estimate of the Communist (and particularly the Chinese) threat of military attack and subversion in the Third World and having raised the official estimate of the capacity of weak States to resist Communist control imposed from the outside, the Nixon administration will rely almost entirely upon the selective use of military and economic aid to contain local Communist aggression. While reaffirming its pledge to shield allies and other States vital to American security from direct aggression by nuclear States, it has virtually ruled out a direct combat role for U.S. forces in local wars that are largely insurgent or civil. The reduction of American military personnel by one third, the reduction of general purpose forces in particular, and the substantial withdrawal of American forces from Asia give tangible meaning to this lowering of the American military profile in the Third World.

Judging from official pronouncements, America's military posture supporting the Nixon-Kissinger revision of foreign policy will continue to aim at maintaining strategic parity with the Soviet Union—indeed, at nothing less than overall technological equality (while conceding to Soviet long-range missile forces some numerical superiority) and a capacity to respond to nuclear attack with something more than massive devastation. The United States will also seek to maintain credible conventional as well as nuclear protection for its allies. But as compared with the periods after the Korean and during the Vietnam wars, it will be far less (if at all) concerned with maintaining a policy or capacity for waging large-scale local wars, as distinguished from small-scale interventions. And, in any event, its political and material capacity to fight such wars will substantially decline.

4. THE INTERNATIONAL POLITICAL CONTEXT

Under what conditions can the United States be expected to retain its position as the predominant manager of the still bipolar, now moderated and stabilized, military balance against the Soviet Union and at the same time retrench its capacity for limited overseas intervention in local wars while maintaining a position of global influence? At the minimum, one must postulate the continuation of U.S.-Soviet detente—that is, of confined competition within negotiated coexistence—and of compelling political and military constraints against Communist armed action.

Will these conditions prevail in the coming decade of international politics? Probably so. The past era of intense great-power confrontation and crisis has more than likely ended. A period of great-power diplomatic maneuver in which superpower crises, military security issues, and concern with the military balance (except in the context of arms control) diminish and recede into the background seems likely to continue for at least a decade. Perhaps this will be a period of considerably less harmonious great-power relations—especially between the United States and its major allies—than the administration anticipates. And perhaps in such a period there will be a greater erosion of the American material capacity and will to maintain a convincing global posture than the Nixon Doctrine pre-supposes. Eventually, the diffusion of power and interests among the world's five developed centers of power and the relative decline of American power could lead to a new-multipolar era of confrontation But this is too conjectural a possibility to be the basis for changing the American security policy outlined by the Nixon administration.

It is somewhat less conjectural, however, to postulate situations short of large-scale local war in which American security interests, broadly defined, may be in jeopardy. Such situations are most likely to arise where indigenous tensions and conflicts threaten (a) the security of friendly regimes and/or (b) the unhindered supply of critical resources, particularly petroleum. In most of these situations the protection of American interests would depend on the local configuration of interests and power; in some, on the use of force and threats of force by indigenous countries, which the United States would support or oppose by arms aid and other indirect means. In rare cases, however, one can imagine the United States more directly supporting or threatening to support friendly regimes against hostile movements and States, where such support could be extended by military demonstrations or interpositions incurring a minimal risk of U.S. involvement in war.

Thus in the Jordanian crisis of 1970 the U.S. government evidently contemplated aerial intervention, not only to rescue hostages seized by Palestinian guerrillas and evacuate American civilians, but also to bolster the pro-Western Jordanian regime of King Hussein against the guerrillas and Syria, and, above all, deter the Soviets from taking advantage of the conflict or triggering a larger war, while impressing them (and the Arabs) in the wake of the Egyptian missile crisis, with the credibility of American power in the Middle East. Actually, the quick success of the Jordanian army against El Fatah forces and Syrian tanks, combined with Israel's mobilization on the frontier, were decisive in resolving this crisis favorably to American interests. Whether the United States would have intervened under any circumstances must remain in doubt.[4] But the incident illustrates the most likely role of American air, naval, and amphibious forces in a local crisis or war: deterring Soviet direct or indirect intervention, inducing Soviet cooperation toward a peaceful and not unfavorable resolution of the crisis, maintaining Soviet respect for American power and will in order to prevent the Soviet Union from seeking some regional, unilateral advantage that would jeopardize the network of interlinked constraints in the superpowers' global *modus vivendi*. In addition, the role of American forces might be to rescue or protect American civilians, to support friendly local regimes against hostile States, and to maintain in the eyes of regional States the credibility of American power to protect American interests. The prospect of the United States actually employing its armed forces in local crises and conflicts will remain ambiguous; nonetheless, military demonstrations, mobilizations, and maneuvers will probably be credible enough to be viewed by the American President as an indispensable instrument of policy, lest potential adversaries stumble into a clash of arms by underestimating his will to use force.

In any case, as new and more structured regional patterns of conflict and alignment seem likely to develop in some parts of the Third World, the United States and the Soviet Union can be expected to remain mutually constrained yet interested participants, through military assistance and other means, in the international politics of these regions. They will, in some cases, as in the Middle East, be aligned competitively with opposing aspirants to regional hegemony and influence. Where one or both superpowers have important material as well as political interests at stake in regional power politics they may find themselves backing contenders in local military actions, demonstrations, and even wars, in which their own military capabilities will play at least a tacit role.

This trend is growing now in the Persian (or Arabian) Gulf area. Growing dependence on Middle Eastern oil gives the United States a major material stake in an area in which it has had political, commercial, and strategic interests for some time.[5] The increased capacity of a few countries to withhold supply to the United States because of huge currency reserves and alternative buyers, together with the possibility that the Arab-Israeli tension or the influence of radical regimes will provide the political incentive for such withholding, constitutes a new threat to America's regional interests. Similarly, the possibility that local rivalries in the area—resulting, for example, in a conflict between Iraq and Iran, with radical regimes and traditional kingdoms aligning themselves on opposite sides—may disrupt American access to oil poses a potential economic threat with such a serious impact on American domestic welfare as to be tantamount to a security threat. At least, these threats are not implausible possibilities.

Whether America's enhanced interest in access to Middle Eastern oil will actually be threatened depends most immediately on the developing pattern of conflict and alignment among the Middle Eastern and particularly the Gulf States (which control 60 per cent of the world's proven oil reserves),[6] on the influence of violent Palestinian groups, on the capacity of radical regimes to gain and expand power, and on the vicissitudes of the Arab-Israeli dispute. But the involvement of both superpowers in the politics of the area through their major "clients" and other recipients of support means that the possibility cannot be excluded that American military demonstration or action would be called for to protect access to oil.[7]

Apart from the possibly fanciful scenarios of American military action to protect supplies of petroleum, some naval planners and publicists define American security interests more generally in terms of maintaining political influence and pressure in a politically acceptable way through a visible naval presence in areas, such as the Gulf and the Indian Ocean, where the United States cannot afford hostile control of the sea.[8] One need not accept the more sweeping versions of Admiral Mahan's theories of naval power, based on ominous but unspecified and highly improbable threats to vital lines of commerce, coupled with overdrawn estimates of Soviet naval power,[9] in order to appreciate the enhanced political and possibly security significance of a far-flung U.S. naval presence in an era of increasing U.S. dependence on foreign strategic materials coupled with a declining U.S. presence on foreign land.

Throughout the world, however, the situations that are most likely to damage the United States' broad security interests in this presumed period of protracted détente may be those which the United States cannot affect by military means, directly or indirectly—indeed, situations over which it has little or no control by any means. These are situations in which American military mobility, military bases, access to oil, and less tangible security interests are damaged by the hostile actions of the weaker and poorer countries, actions which the United States for one reason or another is inhibited from countering by force. Or they are situations in which the conflicts among other States impinge on American interests incidentally rather than by design. (Thus the "cold war" between Britain and Iceland threatened to lead to expulsion of the NATO base from Iceland). If the frustrations and resentments of the less developed countries, no longer able to exploit cold war competition, should be

Footnotes at end of article.

channeled toward organized harassment and pressure against the developed countries—whether for purposes of revenue, political influence, or just nationalist self-assertion—the United States might find itself operating in an environment as hostile to its security as at the height of cold war competition in the Third World. The rising dependence of the United States and its allies on oil and other natural resources and on straits, seas, and overflight which developing countries are able to control by either uncontested or physically established claims, makes American commerce and military mobility particularly vulnerable.[10] Thus one of the primary U.S. security imperatives in this phase of history may become the achievement of mutually advantageous and acceptable working relationships with coastal States in the Third World.

It is apparent from this line of conjecture that the situations affecting U.S. security, broadly conceived, are even more hypothetical than during the height of the Cold War. Yet American security policy, for the sake of deterrence or just insurance against serious trouble, cannot prudently be geared only to predictable contingencies, even though it cannot afford to be geared to the worst contingencies imaginable. With this cautionary note in mind we can explore the implications of these security considerations for U.S. ocean policy.

5. U.S. STRATEGIC NUCLEAR INTERESTS IN OCEAN LAW

In the context of American foreign and security policy and the international environment in which it operates we can now tender some estimates of the effects of different ocean regimes on the specific kinds of U.S. ocean security interests outlined at the outset. It is not sufficient to note that the United States would benefit from maximum military mobility in ocean space (or maximum freedom to emplace listening devices on continental shelves or to conduct offshore electronic intelligence operations) and minimum interference with maritime access to vital resources. That is too sweeping a generality to be translated into laws of the sea in the real world, where one must consider ideal objectives in the context of such operationally significant questions as: (a) how likely, and by what means, are various States to impede achievement of these objectives, (b) how would such impedence affect U.S. interests, (c) to what extent and in what ways would different regimes for use of the oceans affect such impedence, and (d) how feasible and costly is the achievement of more favorable regimes?

First, let us apply these standards of judgment to U.S. nuclear strategic interests in the use of the ocean. Here the chief concern is the efficacy of U.S. SSBNs—currently the Polaris/Poseidon fleet—partly because the onset of MIRVing and improvements in missile accuracy enhance the importance of concealing missiles under the ocean and partly because the case for free transit of international straits has rested most conspicuously on the purported security requirements of the U.S. underwater fleet. The U.S. government maintains that the invulnerability of SSBNs and hence their indispensable role in an adequate second-strike force depends on their right to pass through international straits (that is, straits in which there is regular international passage from one high seas to another) submerged and unannounced; whereas under existing law only innocent passage, which, according to prevailing interpretation, requires surfacing of all submarines, would be legal in straits that fall within territorial boundaries.[11] This is a distinction that is held to be of great significance, since under a 12-mile territorial sea boundary perhaps more than a dozen straits of possible strategic significance would be overlapped by foreign territorial waters.

To assess the validity and practical importance of this position, a number of questions have to be answered:

1. Which of the world's more than 100 international straits (121, according to an unofficial chart devised by the Office of the Geographer in the U.S. Department of State) that would be overlapped by territorial waters if 12-mile boundaries were agreed upon might also be important for the mobility of the U.S. Polaris and Poseidon fleet in order to reach the areas in which present strategic doctrine specifies required targets?

The strategic importance of straits is a matter of judgment on which experts may differ, but stretching this category to its reasonable maximum would produce, according to information provided by the same chart of the Office of the Geographer, a list of 16: Gibraltar, two Middle Eastern straits (Bab el Mandeb and Hormuz), four Southeast Asian straits (Malacca, Lombok, Sunda, and Ombai-Wetar), Western Chosen strait (between South Korea and Japan), five Caribbean straits (Old Bahamas Channel, Dominica, Martinique, Saint Lucia Channel, and Saint Vincent Passage), Dover, Bering, and the Kennedy-Robeson Channels.[12]

Nine of these straits, however, are not really essential to America's strategic capability, and some would in any case fall inside the territory of military allies.[13]

The five Caribbean straits are not needed for transit to Polaris/Poseidon patrol stations, since the Caribbean is not an essential launching area. They are not even essential for access to the Caribbean, since there are several passages over 24 miles wide (for example, Mona, Windard, Anegada, and Guadeloupe).

Western Chosen, the western half of the strait between Japan and the Korean peninsula (which is divided by the Island of Tsushima), is only 23 miles wide; but Japan, if not South Korea, would presumably permit U.S. strategic warships routinely to pass through this strait to the Sea of Japan.[14] In any event, the eastern half of the strait, is 25 miles wide.[15] The real sufferer from any closure of the Korean straits would be Soviet general purpose forces, which, for example, would have to travel more than twice as far from Vladivostok to the Senkakus by going the La Perouse route (north of Hokkaido, south of Sakhalin), thereby affecting Indian Ocean operations, China coast patrols, or submarine deployments from Nakhodka.[16]

Bab el Mandeb offers no significant targeting advantage over the Eastern Mediterranean (and transit through the French side of the strait would probably be available anyway). If the Soviet anti-submarine warfare (ASW) presence became oppressive there, or if Gibraltar were closed, the Red Sea could be considered an alternative deployment area. But nearly all targets that could be reached from there could also be reached from the Gulf. Those in areas that could not be reached from the Gulf (Eastern Europe, the Baltic Coast, and the Leningrad area) could be covered from the Atlantic. Passage through Hormuz is probably not necessary now that the shorter-range Polaris A-1 (with a 1200 nautical-mile range) and A-2 (1750 nautical miles) have been phased out in favor of the A-3 (2880 nautical miles). With Holy Loch available on the west coast of Scotland, there is no great need for SSBNs to use Dover in the English Channel.

2. In which of the remaining straits is submerged passage physically feasible but politically unobtainable on a reliable basis?

Malacca is too shallow (10–12 fathoms) and too buy for submerged passage. Sunda is barely deep enough (20 fathoms in the approaches) but requires a passage of over 700 miles within a 50-fathom depth.

The Bering Straits, although about 45 miles wide, are split by Diomede and Little Diomede Islands, making each half of the straits less than 24 miles wide. But since Little Diomede belongs to the United States, submerged passage to the Arctic is not in question politically. Similarly, the narrow route to the Arctic through the Kennedy-Robeson Channels is presumably accessible by submerged passage, since it is in Canadian waters.

This leaves Gibraltar and two Indonesian straits, Ombai-Weter and Lombok, as strategically important straits through which the submerged passage of U.S. SSBNs is now physically and politically feasible but the use of which might be politically questionable if a 12-mile territorial boundary were established.

The two Indonesian straits are important to SSBN operations from the Indian Ocean to Guam. Without submerged passage through them, the U.S. would have to circumnavigate Australia, greatly reducing the number of days on active patrol as opposed to transit, or double back to one of the entrances to the Timor Sea, 180 to 500 miles east of Ombai-Wetar, which would still pass through Indonesian waters.

An additional hindrance to secret passage through Indonesian waters results from Indonesia's interpretation of the archipelago principle of enclosed waters, according to which the two strategically straits are claimed to be internal rather than international waters.[17] Although the Indonesian government has argued that the archipelago principle does not infringe on innocent passage, it requires prior notification of transit by foreign warships and has begun to raise questions about the innocence of supertanker passage on grounds of the danger of pollution they pose. In April of 1972, the Chairman of the Joint Chiefs of Staff, Admiral Moorer, declared, "We should have and must have the freedom to go through, under, and over the Malacca Strait". Shortly thereafter, the Chief of Staff of the Indonesian Navy was reported as warning, "Our armed forces will attack any foreign submarines entering territorial waters without permit, because it means a violation of Indonesia's sovereignty."[18] In response to Indonesian jurisdictional claims, the United States maintains the international character of Indonesian straits but, according to press accounts and Indonesian sources, routinely provides prior notification of transit by surface ships and presumably relies on some special bilateral navy-to-navy arrangement for submerged passage that is not inconsistent with the requirements of concealing the details of SSBN passage from foreign intelligence.[19] This is a rather contingent *modus vivendi*, but as long as an Indonesian government as friendly as that of Suharto is in power it satisfies America's needs.

The situation in Gibraltar is more complicated. Although the Strait is only 11.5 miles wide and Spain claims a 6-mile territorial sea, its international character has been preserved by historic tradition and by the treaties of 1904 and 1912 between Britain and France and Spain securing free passage. In March, 1971, however, there were intimations of a more restrictive view of foreign rights of transit when Spain and Morocco agreed to cooperate to "promote the creation of Mediterranean awareness" and also agreed to consult on all matters relating to peace and security in the Mediterranean and particularly in the Strait. In June, 1972, the Spanish government announced at the United Nations that it would be useful to consider the freezing of naval forces, followed by progressive reductions, in the Mediterranean. At the same time, it indicated that some compromise was necessary between free transit and the rights of coastal States and suggested that such a compromise might

Footnotes at end of article.

be achieved by a re-definition of the right of innocent passage.

Thus Spain may have prepared the way for asserting a right to force submarines passing through the Strait of Gibraltar to surface. But whether or not Spain chooses to assert such a right against American SSBNs will depend, under existing law, primarily on the overall political relations between the United States and Spain. As long as U.S. submarines are based at Rota, the chances are that these political relations will permit an arrangement for submerged transit of U.S. submarines through the Strait of Gibraltar.

If this is not feasible, even the closure of Gibraltar to unannounced submerged U.S. submarine passage would not be disastrous to America's strategic capability. After all, with the Polaris/Poseidon system the entire Soviet Union can be targeted from the Atlantic and Pacific Oceans and the Arabian Sea. Although there has apparently been no need for SSBN patrols in the Indian Ocean, an Indian Ocean base—say, Diego Garcia—would obviate the need to use Gibraltar or the Indonesian straits altogether.

3. To what extent would surface transit of U.S. SSBNs through straits impair their invulnerability to Soviet detection, identification, and (in the event of war) destruction?

This question really subsumes several different questions:

(a) Is the Soviet capability to detect and identify submerged U.S. SSBNs coming through straits significantly inferior to the same Soviet capability with respect to surfaced SSBNs?

The answer is surely "yes" (assuming, of course, that submerged transit is not announced in advance to the straits State, so as to become subject to Soviet intelligence acquisition). It is relatively easy to detect surface passage through straits by means of surface vessels, land observers, or satellites, even at night. By far the most effective and practicable electronic surveillance of submerged vessels is by means of a series of hydrophones (or sonars) connected by undersea cables anchored to the continental shelf, like the U.S. "Caesar" and "Colossus" system. But this device has to be hooked up to a listening station on the shore, which would seem to preclude the Soviet Union installing it at Gibraltar or in Indonesia for the foreseeable future.[20] Moreover, in the high traffic-density straits of Gibraltar and Lombok it would be very difficult to single out transiting nuclear submarines from the high level of background noise. Even in the less-traveled Ombai-Wetar, possible Soviet hydrophone arrays would have to be supplemented by "trawlers" or towed arrays to be effective. The United States and the Soviet Union have developed ocean surveillance satellites, but U.S. efforts to use them to detect submerged vessels have proved impractical for basic physical reasons that technology seems unlikely to overcome in the near future. If the Soviets were willing to assign nuclear-powered anti-submarine submarines (SSNs) to monitor the critical straits, this would somewhat enhance their submerged detection capability; but the difficulty that Soviet SSNs have had in shadowing U.S. SSBNs from bases indicates that SSNs would be no substitute for fixed hydrophone arrays.

(b) To what extent can the Soviet Union continually locate U.S. SSBNs after passage through straits, assuming that Soviet surveillance detects and identifies these SSBNs?

It is now extremely difficult, and promises to remain so far the indefinite future, to track submarines that have passed through straits submerged. It is virtually impossible to track all SSBNs on patrol (that is, in position to fire).[21] Open-area surveillance (from aircraft, surface ships, and satellites) will remain of limited effectiveness unless and until, perhaps, large parts of the ocean floor are covered with a network of bottom detection systems in communication with surface ships and aircraft. The most effective ASW method in wartime is a forward barrier-control system, utilizing coordinated bottom detection devices, other sensors, attack submarines, and ASW aircraft. But in peacetime this system cannot prevent SSBNs from passing through the barrier and disappearing.

(c) Would the Soviet capacity to destroy U.S. SSBNs which were tracked and located after detected passage through straits significantly affect the U.S. second-strike capability?

This is unlikely, unless one estimates the requirements of an adequate second-strike capability very conservatively. To reduce the U.S. second-strike capability significantly, the Soviets would have to be sure of simultaneously knocking out most of the 20 to 25 U.S. SSBNs on station at any one time. Merely a few Poseidon-carrying submarines (which will eventually comprise 31 of the 41 U.S. SSBNs), each with its 16 missiles with 10 MIRVs on each missile, could overwhelm the Soviet ABM system. Moreover, this situation will last at least as long as the initial Strategic Arms Limitation Treaty limiting deployment of ABMs is in effect.

4. How will the prospective new Trident SSBN system affect the need to use the critical straits in question?

Although the amount of Congressional funding and the outcome of efforts in the Strategic Arms Limitation Talks to limit SSBNs are uncertain, the development of a new Underwater Long-Range Missile System (ULMS) for the so-called Trident SSBN system may produce a successor to Polaris/Poseidon in the 1980's. The Trident submarine would carry 24 missiles with a range of between 4500 and 6500 nautical miles and with MIRV warheads. It would be quieter and would dive deeper and remain on station for longer periods. Deployment of the Trident system—or, for that matter, the development of ULMS on Poseidon submarines, which is planned for fiscal year 1978—would virtually obviate the dependence of the U.S. underwater nuclear deterrent on transit of straits.

Taking all these considerations into account, it would seem that, even without the Trident system, the absence of a provision for free transit of international straits in a law of the sea treaty sanctioning 12-mile territorial sea boundaries, although imposing some hardships on the operation of the U.S. SSBN fleet, would not seriously weaken its contribution to nuclear deterrence. From the routine operational standpoint the hardship of having to surface submarines would fall more heavily on nuclear anti-submarine submarines (SSNs), which play an important role in the strategic nuclear equation. But despite the improved information about the numbers, direction, and location of hunter-killer submarines that surface transit would give to Soviet intelligence, this hardship would not really increase the willingness of the Soviet Union to launch a nuclear first strike or greatly enhance the efficacy of Soviet salvos after an initial nuclear exchange. In any event, the same requirements of surfacing imposed on Soviet SSNs would offset the disadvantage to the U.S. underwater deterrent.

Aside from the problem of detection, however, there are other operational disadvantages to surfacing nuclear submarines in straits. Where high-density traffic occurs, as in narrow straits and around headlands, the nuclear submarine is safer both to itself and to surface shipping when it is below the surface. One reason is its huge size. An advanced model such as the *Lafayette* is 425 feet in length, has a beam of 33 feet and a submerged displacement of 8,750 tons, which is longer than WW II destroyers and heavier than some World War II light cruisers. The nuclear submarine is designed to operate best when submerged, where she has greatest maneuverability and her sensors work best. With a low conning tower and no superstructure to speak of, she must receive exceptions to her construction standards in order to comply with light requirements for night navigation. For this reason and since much of her hull is below the surface and not visible to electronic searchers (radar), merchantmen find a submarine hard to detect. Moreover, a submarine's ability to travel under the surface frees her from the limitation of surface weather and wave motion, and any submarine is particularly vulnerable to collision loss by virtue of its small reservoir of buoyancy.

The operational disadvantages of surface transit could be avoided, of course, if the United States were willing to provide littoral States with advance notification of underwater transit, providing that the critical States in question would regard underwater transit on these terms as a satisfactory arrangement. But this hypothesis only illustrates that the prior issue is the importance of secret passage.

When pressed to explain the necessity for free transit of straits, U.S. officials have referred not only to the security of secret passage and to the safety of submerged passage but also to the prospect that, without an international treaty prescribing free transit, straits States might resort to "subjective" (that is, politically-inspired) interpretations of innocent passage in order to restrict the passage of U.S. warships. Thus John R. Stevenson, chief of the U.S. delegation to the U.N. Seabed Committee, testified before Congress that "We would not contemplate notifying [littoral States of intention to transit straits] because if such a requirement is introduced, there is of course ultimately a risk of this leading to control of transit through straits." This risk, Stevenson said, lies mostly in the future, and he cited no case in which the requirement of advance notification had been used to restrict naval transit.[22]

In fact, experience indicates that the risk of restrictive interpretations of innocent passage applies largely to commercial vessels on grounds of navigational safety and anti-pollution—a point which has, until recent emphasis by the oil industry, received little attention, perhaps because of the notable reluctance of the U.S. shipping industry to pursue its considerable interests in a law of the sea treaty openly. Surely, these grounds for controlling the passage of ships offshore are not purely subjective; they are objectively quite important. If, on the other hand, one takes seriously the danger that littoral States will interpret innocent passage and the requirement of advance notification to deny transit of straits to American warships for purely political reasons, then one must also wonder why these States would sign a treaty prescribing unimpeded passage or be deterred by such a treaty.

So much for SSBNs. What about other components of the U.S. strategic capability? In the discussion and controversy about the need for free transit through straits the issue of overflight has been all but ignored in public statements, although the U.S. position on the law of the sea treaty—presumably for compelling strategic reasons—prescribes free transit over straits for military aircraft (there being no innocent passage for overflight recognized in international law). According to the Triad system, U.S. strategic nuclear capability requires manned aircraft as well as SSBNs and land-based missiles. The U.S. strategic bombing force is still a significant weapons system, with some distinct advantages of mobility and of control responsive to political guidance. One might suppose that effective denial of military over-

Footnotes at end of article.

flight over key straits would seriously impair the utility of the U.S. strategic bombing force as a deterrent.

In practice, however, the right to fly over 24-mile straits does not seem to be critical to the utility of the U.S. strategic bomber force (as distinguished from the U.S. military airlift capability), since overflight of straits is a small part of the larger pattern of overflight, which is evidently managed adequately by special arrangements, where necessary, and which is physically unfeasible for most States to deny in any case.[23]

The emphasis in American ocean policy on free transit under, through, or over international straits has somewhat overshadowed another official concern: that the U.S. strategic capability may be hampered by territorial sea boundaries or continental shelf regimes claimed or established by coastal States.

The breadth of the continental shelf regime, one can infer from the published data, might have some effect on the freedom of the United States to emplace passive ASW listening devices (SOSUS) on the shelf, particularly off the shores of foreign countries.[24] Apparently, these devices are most effective beyond the 200-meter depth and part way down the slope of the shelf,[25] although their effectiveness must also depend on the peculiar acoustic properties of the ocean at various temperatures, depths, and salinity and particularly on the depth of the sound channel that focuses sound energy in deep water. Presumably, the United States would be constrained from placing SOSUS where the use of the shelf were not permitted by existing international law or protected by a new international treaty. Therefore, one might assume that an ocean regime that extended territorial sovereignty over the whole continental margin would adversely affect U.S. military security if SOSUS is vital to America's strategic capability.

Undoubtedly, hydrophone arrays on the ocean bottom are critically important to the U.S. ASW capability, whatever the strategic or other military importance of ASW may be.[26] It is unlikely that new technology will reduce their importance in the next five to ten years, if ever. These acoustic devices are perhaps physically vulnerable to Soviet interference; but the Soviets, one may assume, are installing many of the same kind of devices and therefore have a vested interest in not interfering with them. Most developing countries do not have the capability to locate and destroy the arrays; and the United States denies, in any case, that it has placed them off the shores of these countries, although their suspicions persist.

Notwithstanding these facts, however, there is little reason to think that the utility of SOSUS would be critically affected even by the broadest boundary of coastal State sovereignty on the continental shelf. The crucial monitoring areas where SOSUS needs to be emplaced, one would judge from the published information on the submarine passageways where they are most useful, are the Greenland-Iceland-United Kingdom gap, the Arctic, the North Pacific, and the Caribbean. With the possible exception (albeit a key one) of Iceland, enough of the northern European countries are concerned about the Soviet SSBN force to permit U.S. listening devices in the area. Considering the extent of the shelf off Alaska and Canada, the emplacement of hydrophone arrays in the Arctic is not likely to be severely restricted by a shelf convention. Between Guam, Midway, Hawaii, Alaska, and the Aleutians, the United States can claim a significant amount of underwater real estate on which to emplace listening devices in the North Pacific. Whatever gaps may exist in this coverage would not seem to be affected one way or another by extended claims to the continental shelf. Only in the Caribbean and the Gulf of Mexico would a broad national shelf be likely to restrict U.S. coverage. But U.S. coverage there is limited anyway, since Cuba blocks it from CONUS while the Dominican Republic lies in the way of coverage from Puerto Rico.

In any case, as noted above, since hydrophones have to be connected to shore stations (or, at great expense, to surface ships), the United Stats generally needs the permission of coastal States to emplace SOSUS on their continental shelves, whether within or beyond the territorial boundaries claimed by these States.

It should also be noted that an extension of national claims to the shelf edge probably would do more damage to Soviet acoustic installations than to American. Presumably, it would be difficult to find a government beyond the Norwegian Sea that would consent to Soviet devices on its shelf. The same is true of Canada and of Japan (although the effect of this fact is limited by Soviet ownership of the Kuriles).

The implications of SOSUS are the same even if national regimes were to encompass the continental margin, although the bottom topography near Iceland makes it difficult to determine the precise limits of the shelf, margin, rise, etc. There is however, a third possibility if no international regime is agreed upon. The 1958 Continenal Shelf Convention states, in part, "the term 'continental shelf' is used as referring . . . to the seabed and subsoil of the submarine areas adjacent to the coast to where the depth of the superjacent water admits of exploitation of the natural resources of said areas." Since the technology for exploiting all but the deepest trenches soon will be available, this could eventually lead to a delimitation of the seabed nearly on the basis of media lines. In this event, the United States would own most of the North Pacific seabed (although it probably would not be useful for more listening stations); the United States, Canada, and the USSR would divide up the Arctic (also without much impact on senors); the situation in the Caribbean would not be greatly altered; and Norway would own much of the seabed beneath the entrance to the North Atlantic.

Finally, in estimating the impact of alternative ocean regimes on America's military strategic capability, one must take into account the effects of extended territorial sea boundaries and other kinds of off-shore zones. These effects, of course, depend in part upon what sort of restrictions coastal States choose to claim and are able to enforce or otherwise gain compliance with. Added to the proliferation of extensive off-shore territorial claims, coastal States are looking increasingly to extensive anti-pollution, security, and other functional zones as a basis for restricting foreign navigation, both military and civilian. Moreover, in the absence of a comprehensive and near-universal law of the sea treaty such as the United States has proposed, coastal States may resort to regional or local treaties—on the model of the Montreux Convention or a version of the Soviet doctrine of "closed seas"—that will severely restrict the numbers, types, and methods of transit by warships of non-signatories. Assuming, then, for the sake of analysis, that more and more coastal States will be trying to apply more and more restrictions on foreign military passage within 50 to 200-mile offshore zones and adjacent seas, what are the implications for America's strategic capability?

A 200-mile region that impeded American naval passage would have the greatest effect on America's strategic capability in the Arctic, given the premise presented here that the Mediterranean is not indispensable to America's strategic nuclear capability. But even with 200-mile sea boundaries, access to the Arctic would be possible through the Eastern Bering Strait and the Kennedy-Robeson Channel (given Canadian compliance). In the Atlantic, patrols could still press fairly far north within the 200-mile boundary around the Shetlands. In Indonesian waters, a 200-mile boundary would not be much more restrictive than a 12-mile boundary, since Indonesia defines its boundary according to a broad archipelago doctrine. In any case, Poseidon missiles could still target all the USSR from points 200 miles off Bangladesh and Japan and in the southern Norwegian Sea.

More important than the impact of restrictive territorial zones and special seas on SSBNs may be their impact on the integrated operation of fleets—such as the Sixth Fleet in the Mediterranean—which have strategic functions beyond providing launching platforms for missiles. But the strategic function of surface ships, apart from their political and psychological uses, has been drastically eroded by technological advances in attack submarines, surface ships, and aircraft.

Moreover, it is worth noting that coastal State restrictions would have a much more adverse impact on Soviet than on American strategic mobility. If, for example, the restrictions applied to the current narrow sea boundaries were applied to 200-mile boundaries, Soviet SSBNs would be restricted to half of the Arctic and to operations from Petropavlosk. Submerged passage to the Atlantic would be prohibited. The Caribbean and the southern exits from the Sea of Japan would be closed. Soviet fleet maneuvers would be correspondingly more impeded than American by the proliferation of extensive restricted seas, anti-pollution zones, and the like.

What, then, are the implications of all these considerations for the protection of American strategic interests under alternative ocean regimes? Unquestionably, America's strategic capability with respect to the Soviet Union would be better off under an effective universally-applicable law of the sea treaty that provided free transit through international straits, established a narrow continental-shelf boundary, limited territorial sea boundaries to 12 miles, and protected military passage through anti-pollution and other zones, than under the more restrictive regimes we have postulated. But even the most restrictive regimes we have anticipated would not undermine America's strategic capability on the ocean, particularly if the Trident system were operating. Moreover, the adverse impact of restrictive regimes on the totality of Soviet ocean-based strategic capabilities would be far more severe than on American capabilities, although, faced with America's greater strategic dependence on the sea, U.S. naval leaders cannot be expected to gain much consolation from this comparison.

In any event, what is the most realistic alternative to the postulated proliferation of restrictive regimes? Is it to insist on the nonnegotiability of free transit through international straits and the maximum freedom of the seas against the restrictive inclinations of coastal States? Or is it to concede to coastal States somewhat more extensive control of straits, sea bottoms, and sea boundaries, while seeking to protect the really essential strategic needs, whether through a law of the sea treaty that strives for universality or through other kinds of arrangements and agreements?

We shall revert to this question after considering America's non-strategic security needs on the ocean. Suffice it to note here that the United States' achievement of special arrangements and agreements that will protect America's essential strategic interests—demonstrated in U.S. relations not only with allies but also with Spain, Indonesia, and Iran—depends on the government's ability to reach favorable bargains in the total context of its political relations with

Footnotes at end of article.

key coastal States. For this purpose the United States, even in this period of dependence on Middle East oil, has considerable political, economic, and military assets. Its good working relations with a number of locally and regionally powerful States manifests these assets. If this is a correct assessment, it would be a great mistake for the United States to waste political assets or pay a big price in terms of other ocean interests in order to achieve illusory maximum strategic advantages under a law of the sea treaty that might, in that case, be unacceptable to key States anyway.

e. OTHER U.S. SECURITY INTERESTS IN OCEAN LAW

In seeming to concentrate so heavily on the need to protect America's strategic nuclear capability, American ocean-law officials have until recently under-rated more serious threats to U.S. security interests that impinge on the U.S. capability to conduct limited military actions and demonstrations and to protect vital commerce and other peacetime interests. They have also underrated America's general security interest, as one of the principal maritime powers, in maintaining harmonious working relations with the less developed coastal States of the world.

We have contended that American security interests, broadly conceived, will continue to require the support—actively or passively, overtly or tacitly—of American armed forces, particularly outside the developed centers of the world and most likely in the Mediterranean-Gulf-Indian Ocean waters providing access to the Middle East. It is impossible to predict or even to assign with much assurance an order of probability to specific scenarios in which the demonstration or active use of American forces may be called for. But the conduct of foreign relations is never susceptible to such precision of foresight. In general terms, nevertheless, we can see that the revised American foreign policy outlined by the Nixon administration requires the stabilization of a reduced but still global force posture for an indefinite period of moderated great-power competition punctuated by continual disturbances on the peripheries of the developed world.

This kind of force posture will continue to require great military mobility in ocean space, but the implications of this requirement for American interests in alternative ocean regimes are not self-evident. In the event of American direct involvement in a local war or military action, would American deployment of naval and air forces in ocean space depend on the agreed or claimed territorial sea boundaries of coastal States or on the national positions and international rules, whether or not sanctioned by treaty, governing passage through or over international straits? Probably not, if the conflict were regarded as sufficiently important to engage American armed forces. Similarly, if America's merchant fleet were to be directly harassed by Soviet or other ships—an unlikely contingency in the case of the Soviet Union, considering its parallel interests as a maritime power—or by its physical denial of access to resources and commerce, the United States would not be deterred by legal claims or interpretations from taking the measures necessary to protect its vital interests.

Nonetheless, the politics surrounding some local conflicts might well lead the United States to heed the objections of non-belligerent States to the passage of U.S. warships and aircraft through and over waters that they held to be under their jurisdiction. In general, the less directly the United States were likely to become involved in an armed conflict and the less critical the outcome to American security interest, the more the United States government might be inclined to heed such objections. Thus if the United States were providing material support to a belligerent in a local conflict—even in the case of Israel, for example—it would probably hesitate to resist either a belligerent's denial of American overflight (as in the Middle East crisis of 1973) or passage of warships and merchant ships. In incidents short of a clash of arms—as, for example, those arising from quasi-legal restrictions imposed on U.S. sea lanes providing access to oil—such denials would be particularly difficult, politically, for the United States to contravene.

It is in situations like these that the kinds of restrictive territorial sea boundaries and special zones that we considered in relation to America's strategic capability can be expected to exert their major impact. Thus the imposition by littoral States of restrictions on straits, whether in the name of protecting themselves from pollution or on economic or more general grounds, is apt to be a far more important and less easily surmounted obstacle to naval mobility (for example, the transportation of general purpose forces in a crisis) and the shipping of oil and other resources than to the efficacy of America's underwater strategic nuclear force. If the criterion of security interest is stretched to include passage through straits of major economic significance (and, incidentally, traffic density), there are at least ten such straits about half of which could be controlled by States that might impose costly, inconvenient, and, conceivably, politically-inspired restrictions on the passage of goods and resources of value to the United States.[27]

This kind of danger was foreshadowed by events in the Strait of Malacca a few years ago. It was a quite reasonable concern about the ecological disaster that could follow an accident to supertankers in the hazardous channels of this strait that provoked Malaysia in July, 1969, to claim a territorial sea of 12 miles. Indonesia, which in 1957 had proclaimed its archipelago doctrine of sovereignty within baselines drawn around its 13,000 islands, joined Malaysia in 1970 in a treaty dividing the Strait down the middle. When the U.S. carrier *Enterprise* and accompanying ships passed through the strait enroute to the Bay of Bengal during the Bangladesh crisis of 1972, Indonesian spokesmen reaffirmed the right of the littoral States to control such passage but reconciled this right with the American action by stating that the Commander of the Seventh Fleet had given advance notice.[28] The United States thus avoided a dispute with Indonesia, but the prospect of more troublesome encounters in the future had been foreshadowed.

It does not necessarily follow, however, that the protection of American interests against such encounters can be secured by new international legal and organizational devices. After the *Enterprise* incident, the United States government proposed that "free passage" of straits in a law of the sea treaty be qualified by international standards for safety to be established by the Inter-Governmental Maritime Consultative Organization (IMCO) or some other international organization and enforced, beyond the coastal State's territorial sea boundary, by the flag State or port State.[29] But Malaysia and Indonesia, while willing to grant controlled transit through straits and waters near their shores at their discretion (although the United States evidently does not give either Malaysia or Singapore the advance notification Indonesia claims to receive), are not willing to relinquish such control to an international organization dominated by the United States; and they are even less willing to entrust enforcement of pollution and safety standards to the great maritime States who are increasingly congesting straits with huge tankers and other commercial vessels.

These political facts argue for the adoption of a legal position more accommodating to the claimed residual sovereignty of coastal States beyond their territorial sea boundaries. But how serious potential conflicts between coastal and maritime States become will depend on more than success or failure in the search for a general international treaty. After all, there seems to be, even now, a *modus vivendi* between the United States and Indonesia that works fairly well because jurisdictional differences are not pressed to the point of codification. One gets the impression that basic political factors, such as Indonesia's determination to become the dominant Southeast Asian power, its uneasiness about expanding Soviet naval activity and Soviet alignment with India, its latent fear of Japan and reluctance to become dependent on Japan's naval power, and its dependence on an American presence in Southeast Asia, consolidated by American economic assistance and military aid and sales, will have more to do with an accommodation of U.S. and Indonesian ocean interests than anything that is likely to happen at a general international conference to negotiate a law of the sea treaty.

Similarly, the protection of American naval and economic interests in the Persian (or Arabian) Gulf seem destined to depend far more on good relations with Iran than on a new law of the sea treaty. Indeed, Iran's drive for control of shipping in the Gulf, through which two-thirds of the non-Communist world's oil imports pass, tends to conflict with the tenets of free navigation that the United States would like to see incorporated into a law of the sea treaty. Thus in March, 1973, Iran was reported to be exploring an agreement with Oman to inspect all ships passing through the Straits of Hormuz at the entrance of the Gulf.[30] Observers of Gulf politics regard Iran's announced concern about the threat of poliution as secondary to its concern about Arab governments supplying arms to Iranian rebels. Iran's inclination to seek control of shipping in the Gulf may run counter to an ideal universal law of the sea treaty; but, considering the more than $2 billion in arms the United States has provided Iran to bolster its claim to paramountcy in the Gulf, Iran's forward policy should not be inconsistent with America's broad security interests in the Gulf. Indeed, if the general U.S. policy of relying on Iran as a surrogate for U.S. naval power is correct, Iranian control of the Gulf may be the condition, or at least the necessary price, of protecting U.S. interests in the Gulf.

Restrictions on overflight, as on surface navigation, exert a far more serious effect on the mobility of general pupose forces in limited wars and crises short of war than on the U.S. strategic capability. In the Mediterranean and Gulf areas, at least, the United States evidently must count on denial of military overflight rights even by allied and other countries in which it has air bases. The result, as in the case of surface navigation, is to enhance the importance of unimpeded passage over (as through) straits. In practice, however, the problem of securing essential mobility by overflight is even more confined geographically. Perhaps it comes down essentially to flying over the Strait of Gibraltar. In any case, resolving this problem, like securing military transit through straits, will depend primarily on the full context of political relations with a few key States. If these relations are not favorable to unimpeded passage, the key States are not likely to sign a free transit provision because of any bargaining that takes place in a law of the sea treaty conference. If they are favorable, the United States will probably have a better chance of arranging a satisfactory *modus vivendi* outside an international conference than of obtaining a legal guarantee through either a multilateral or bilateral treaty.

Nevertheless, U.S. ocean policy-makers understandably cringe from the troublesome

Footnotes at end of article.

prospect of contriving the protection of American ocean security interests through *ad hoc* deals with local and regional powers. As lawyers must, they seek to rest the protection of American ocean interests on treaty-made laws that apply as generally and unambiguously as possible rather than on *modus vivendi* based on fragile political alignments and the untidy growth of customary law. Moreover, they look upon both the threat of American ocean interests and the solution to the threat in abstract terms, consistent with the American tendency to identify the national interests with a universal order.

According to this outlook, the more coastal countries that assert control over straits claim 50-mile or 200-mile territorial boundaries, demand special restrictions on innocent passage, or otherwise constrain the use of ocean space, the more such constraints are apt to lead to encounters and clashes with the major maritime States. Consequently, in this environment American vital interests will be increasingly endangered, and the United States will incur growing difficulties in moving air and naval units to the sites of local clashes and crises that affect these interests. This equation, in the official view, raises the prospect that, in the absence of a new universal law of the sea treaty, the United States will have to choose between acquiescing to increasing assertions by coastal States of jurisdictional rights that constrict American ocean mobility and forcefully contesting such assertions.

The resort to force is typically presented as a prospect that points up the urgency of an international law of the sea treaty, as though force—at least when imposed by the strong against the weak—were either obsolete or too terrible to contemplate. The generalization is pertinent but overdrawn. Not that the commonly observed inhibitions of the most powerful States against enforcing their will on weaker States in the postwar international environment are any less compelling with respect to the major maritime States protecting their interests on the ocean. But we exaggerate these inhibitions if we do not recognize their contingent nature. That is to say, the great powers' constraint in enforcing their interests against the developing countries depends on a calculus of material (and, one can argue, long-run political) gain and political loss that may change with changing conditions.

Thus, the political costs of the United States forcibly protecting American tuna fishers against the claims of sovereignty by Peru always seemed excessive compared to what could be gained by such drastic measures and what would be lost without them. But it is misleading to infer from this situation that the United States would be equally passive in the face of some threat to a more serious economic interest or to a military security interest. British resistance to Iceland's 50-mile exclusive fishing-zone claim, which led to a number of clashes between Icelandic naval ships and British escorts, demonstrates considerable British self-restraint but also shows—despite Britain's withdrawal of its warships in pursuit of a settlement—that a maritime State will not necessarily passively accept the assertions by a small State of a conflicting ocean regime when important economic interests are at stake and cannot be secured by other means (such as by licensing arrangements, by trading military or economic aid for non-enforcement, or by gaining compensation for seized ships).

Where military security is involved, moreover, the maritime States have been bolder in backing their interests than in fishing disputes. The most frequent examples have occured in intelligence gathering. Thus, despite North Vietnam's claimed 12-mile boundary, the United States acknowledged that the U.S. destroyer *Maddox* was only 11 miles off North Vietnam shortly before the first Gulf of Tonkin incident. The United States has not been reluctant to fly aerial intelligence missions that contravene unaccepted jurisdictional claims over coastal waters.

Since World War II there have been several cases (excluding fishing-rights interventions and Cold War crises) in which maritime powers have exercised their naval superiority to support their definition of freedom of the seas. In July, 1951, when an Egyptian corvette intercepted and damaged a British merchantman in the Gulf of Aqaba during an attempted blockade of Israel, a British destroyer flotilla was deployed to the Red Sea. Two weeks later Britain and Egypt reached an agreement on procedures for British shipping in the Gulf. In February, 1957, American destroyers patrolled the Straits of Tiran and the Gulf of Aqaba to prevent Egyptian interference with American merchant shipping enroute to Israel. On December 13, 1957, President Sukarno's government enunciated Indonesia's archipelago doctrine. Less than a month later, Destroyer Division 31 passed through the Lombok and Makassar Straits to reaffirm the U.S. right of innocent passage. On July 21, 1961, following a bombardment by French naval aircraft, a French cruiser-destroyer group forced the entrance to the Lake of Bizerta to lift a Tunisian blockade of the naval base and re-establish French control. Following Egyptian closing of the Straits of Tiran in May, 1967, the Sixth Fleet concentrated in the Eastern Mediterranean while the Admiralty announced that the carrier *HMS Victorious* and other units were being kept in the Mediterranean "in readiness against any eventuality," although the threat was not carried further. On April 22, 1969, Iranian warships escorted an Iranian merchant ship from Khorrasmshahr (at the junction of the Tigris and Karun rivers just inside the Iranian border) to the Persian Gulf in defiance of Iraqi threats. Apparently a similar incident had occurred in 1961 in which Iran was forced to yield for lack of naval forces.

On other occasions maritime powers have simply ignored or rejected coastal State claims against their activities. Thus the PRC Chinese routinely challenge U.S. vessels in the Lema Channel en route to Hong Kong, and the U.S. vessels routinely disregard these challenges. France enforces restricted zones around its nuclear testing site at Mururoa atoll, despite national protests. During the Algerian War, France undertook to visit and search the flagships of more than a dozen States, on some occasions as far away as the English Channel.

Thus, if the jurisdictional claims of coastal States were to jeopardize American economic or security interests in the Third World, the United States would not necessarily be deterred by immediate political costs from supporting its ocean interests with force, particularly if the clash of interests occurred out of the context of U.S.-Soviet competition, which is increasingly likely to be the case. If such clashes were to become contagious, as regular features of the international environment within which the maritime powers have to operate, one can even imagine some of these powers at least tacitly cooperating to enforce their conception of freedom of navigation. Then new laws of the sea would eventually be defined, over time, by the kind of military and diplomatic process that created the traditional laws, with test encounters playing a determining role.

This is neither a desirable nor the most likely prospect, however. Coastal States or the maritime powers are not likely to be so intractable in the pursuit of conflicting interests at the expense of their parallel and common interests in maintaining the flow of commerce. Nor are the interests of coastal or maritime States likely to be so cohesive and single-minded as this prospect presupposes. Nevertheless, the prospect does adumbrate a plausible upper limit of conflict, the anticipation of which may tend to keep the political process of customary and formal law-making within moderate bounds. Within these bounds the protection of American security interests in the ocean will depend, in the first instance, on the configuration of political interests and military power among indigenous States that are in a position to affect vital American military and resource interests; secondly, on the balance of U.S.-Soviet interests and influence as it affects the actions of these States; thirdly, upon the perceived and actual disposition of the United States to back its ocean interests with force; and, only in this total context, on the process of asserting, contesting, accommodating, and negotiating the modalities of the rights of navigation through and over offshore waters and international straits.

Indeed, whether or not a satisfactory law of the sea treaty is obtained, the United States, consistent with the current realities of international politics as well as with the revised view of American power and interests underlying the Nixon doctrine, must depend more and more on the favorable configuration of interests and power among local States rather than on direct American intervention, by armed force or otherwise, to protect its security interests in the use of ocean space. Insofar as the United States can affect such configurations at all, it must depend primarily on skill and tact in playing the politics of trade and investment, economic and military assistanee, and traditional diplomacy in its dealings with the major oil-producing States and the States astride commercially and militarily key straits.

7. IMPLICATIONS FOR THE LAW OF THE SEA TREATY

From the standpoint of American security interests what conclusions can one draw from this analysis about the desirability and feasibility of resolving by means of the projected law of the sea treaty the various jurisdictional issues—present and potential—concerning the use of the ocean? Although American law of the sea officials have scarcely bothered to justify this comprehensive approach except in the most general terms, they are moved, one can infer, by several ostensible advantages of this approach as compared to reliance on existing laws and *modus vivendi*, on separating navigational from other issues for settlement, or on seeking bilateral or regional treaties and arrangements.

One such advantage is the practical one of *uniformity*. The point made by American ocean officials is that it would be excessively time-consuming, inconvenient, and disorderly to make differing *ad hoc* arrangements with all the littoral States involved. This point is compelling as it applies to jurisdictional zones and other ocean issues affecting commercial activities—whether fishing, petroleum and mineral exploration and exploitation, or merchant shipping. Having to adapt these activities to a diversity of local claims, regulations, and laws could pose such practical difficulties and contradictions as to impede commerce while leaving unresolved many sources of international litigation and conflict. If, for example, littoral States continue to impose an increasing number of more stringent requirements on the type and construction of merchant ships, on insurance, and on navigational taxes and tolls for shipping, the resulting chaos of claims and arrangements could be worse than inconvenient.

This kind of disadvantage, however, is not nearly so serious as it applies to naval and air navigation for security purposes, since, if the forgoing analysis is correct, the critical problems of navigation and other military uses of the ocean are neither so numerous and diverse nor so intractable to special arrangements as to be beyond satisfactory resolution on an *ad hoc* basis, if necessary.

Of course, as U.S. representatives now emphasize, if a universal law of the sea treaty incorporating free transit could be obtained, it would be advantageous not only to American military mobility but also to merchant shipping, in which national commercial and security interests now merge. But even so, agreement on free transit would not obviate the need for special international agreements applicable to merchant shipping. Hence, the U.S. government has (a) stressed that the "free" in "free transit" applies only to unrestricted passage through international straits rather than to the whole range of activities permitted on the high seas and (b) expressly stated that the problems of navigational safety and pollution risks in international straits should be resolved by separate international agreements and organizations.[21]

If the right of transit must be qualified, in any case, by recognition of the legitimate concerns of littoral States about the hazards of merchant shipping off their shores and in adjacent straits, it may be unwise to fuse the protection of this right with the right of submarines to go through straits submerged and unannounced. It may also be unwise to insist on the strict meaning of "free transit" if the substance of the right can be as readily protected in practice—and with less arousal of the political sensitivities of post-colonial States—under the rubric of "innocent" or "unimpeded."

A second ostensible advantage to the comprehensive treaty approach to ocean lawmaking is that the United States would gain a *bargaining* advantage by intermixing the free-transit straits provision with resource provisions, such as 200-mile resource zones and revenue sharing, which are intended to give coastal States otherwise opposed or indifferent to free transit an incentive to make concessions to U.S. security interests. The only trouble with this argument is that, in practice, the strategy may not work. Indeed, it may work just the other way, if coastal States, observing the great importance that the United States attaches to free transit, calculate that they can extract concessions on their control of resource zones and the like as the price of accommodating maritime interests. It remains to be seen which, if either, of these bargaining strategies works better. But so far, judging from the concessions to coastal State control of resource zones that the United States has already made, the advantage seems to lie with the coastal States. Even where these States (as in Latin America) have evidently made concessions to the U.S. position on free navigation, they have done so, in accordance with the Latin doctrine of "patrimonial seas," at the price of American abandonment of restrictions on exclusive resource zones (other than restrictions of dubious political feasibility, such as compulsory dispute settlement and security of investments).

A third reason for the comprehensive approach is the alleged *political advantage* to seeking a legal resolution of conflicting interests in the context of a treaty applicable to all States rather than to a few.

One supposition underlying this point seems to be that weaker States will find this general multilateral context less invidious and less damaging to their national pride than entering into bilateral or regional arrangements with the United States, and that therefore they will find it easier to be accommodating. The smaller States can explain their accommodations as concessions to the general international community in which they all participate. The United States can avoid the stigma of hegemony and limit the price for compliance the smaller States may exact.

A related supposition may be that in trying to reach bilateral or regional deals the United States must suffer the political embarrassment, as well as the tactical disadvantage, of having to satisfy the special interests of weaker States; whereas the United States is less vulnerable to such pressure for concessions, and concessions made to one country or regional grouping are less apt to embarrass the United States in dealing with others, if it can generalize its positions and its modes of influence in the huge multilateral forums of the United Nations.

These kinds of political considerations are, of course, valid in some cases of diplomacy; but since they are not valid *a priori* and in all circumstances, only an exploration of the comprehensive approach and its alternatives could indicate whether it applies to the diplomacy intended to protect U.S. ocean security interests. Here the evidence is quite incomplete and will probably remain so. So far, the requisite number of key coastal States have been reluctant to concede free transit in return for international controls against accidents and pollution, but the United States has nevertheless managed to protect its essential security interests. On the other hand, there is no reason to think that the United Sates would come any closer to gaining acceptance of its position through bilateral or regional deals.

Therefore, it would seem that the case for including the provisions of special security concern in a law of the sea treaty depends much less, if at all, on the alleged advantage of comprehensiveness and universality than on the feasibility of persuading a large number of States, including the key straits States, to accept particular provisions like free transit as consistent with their basic interests and sovereignty, no matter what the negotiating format may be. If the requisite States agree to free transit, it will not be because of any advantages of political accommodation and bargaining power inherent in the negotiating forum but because of the particular balance of interests that emerges in the total context of their relations with the United States and other maritime States. If they regard free transit as inconsistent with their interests, for whatever subjective or objective reasons, the United States would be ill-advised to make agreement on free transit the condition of accepting a treaty that might resolve the jurisdictional issues pertaining to merchant shipping and commercial activity, where the case for uniformity and universality is compelling. American security interests will suffer far more from an international environment in which unresolved jurisdictional issues concerning resource and anti-pollution zones engender chronic conflicts and in which coastal States impose a variety of regulations and restrictions on commercial shipping than from international agreements on something less than free transit through international straits or, for that matter, from no additional formal agreements on straits at all.

At this point, before the projected international conference on the law of the sea convenes, American representatives stoutly insist that in the end, when all the rhetoric and bargaining are over and a treaty is up for final negotiation, the coastal States will generally accept free transit, because it is not contrary to their national interests and, in the case of a few countries with maritime interests, is a positive advantage. Although this estimate is shared by few close observers of international ocean parleys outside the government and is doubted by some important individuals and agencies inside the government, it may turn out to be correct if the United States makes concessions to the pride and interests of enough developing countries. If official optimism about the prospect of achieving free transit is unwarranted, however, or if the price is exorbitant, not only U.S. security interests but the whole range of U.S. ocean interests would be best served by confining the law of the sea treaty's concern with passage through international straits to general principles of mutual maritime and coastal State interest, leaving the precise condition of transit legally ambiguous. If these conditions need to be made more precise—which is questionable—the United States can afford to delay the formulation of them until some further accommodation of the various interests of the United States and the key straits States crystallizes outside the tense environment of a huge international conference. Indeed, this may be the only course it can afford. In any event, the best alternative to protecting U.S. security interests in a comprehensive international treaty is probably not seeking protection through bilateral or regional treaties (where the political effort and cost promise no greater returns) but simply through *modus vivendi* under existing law, leavened by international agreements that meet the legitimate concern of littoral States to have a fair share of control, along with the great maritime users, over the increasingly congested commercial ocean lanes.

The disadvantage of this policy has been exaggerated by implicit acceptance of the unexplained assumption in the official policy that there is some great advantage to getting many countries to sign an international treaty embodying free transit (assuming that they will), although a few straits States refuse to sign it (as even U.S. ocean officials consider likely). On the face of it, the most important objective of a treaty provision on free transit is to gain full legal recognition of the principle of unimpeded passage through straits from the few States—for military purposes, perhaps only Spain and Indonesia—that might seriously endanger American security interests by impeding passage. If the U.S. position is not based on the supposition that the key straits States will subordinate their special interests, as they see them, to "world opinion", either by joining the multitude of signatories or by relinquishing their claims in practice—and this would be a most unrealistic supposition—it must be based on the calculation that in the event of a show-down, the United States will be in a better position physically to resist assertions of control by these States, forcibly if necessary, if it can bolster its resistance with the sanction of a nearly universal treaty. There may be an element of truth in this calculation insofar as it applies to the moral courage of American statesmen; but it seems naive as it applies to the efficacy of an international treaty in either marshalling the support of coastal State signatories or gaining the compliance of non-signatories.

Nonetheless, one could view this hypothetical assumption about the psychological and political efficacy of an international treaty more hopefully if there were more reason to share the official U.S. confidence in the eventual "rationality" of a large block of coastal and less developed countries that now seem reluctant to grant free transit. Against this hopeful prospect one must weigh the danger that the United States will only aggravate the problem of reconciling its interests in unencumbered navigation with the interests and pride of a large number of coastal States in controlling the use of "their" waters if it insists on obtaining the maximum guarantees for its interests through international law. By elevating what must in essence be a set of political accommodations between the interests of the great maritime States and many coastal States into a matter of legal rights and national sovereignty, the United States may only polarize the issues. On the other hand, by asking for less in law, it may get more protection for its interests in fact. For on the practical basis of day-to-day dealings, as opposed to the rhetoric of public international discourse, most coastal States, including the key ones, are not necessarily opposed to granting in practice what they

Footnotes at end of article.

may refuse to accept as legal principle. And in an atmosphere in which the less developed coastal States do not see themselves as confronting the great maritime States in a contest of power, a contest in which they must rely on their superior voting strength in the U.N., a number of these weaker States whose shipping can be hampered by regional rivals may come to the conclusion that they have at least as much interest as the developed states in unencumbered navigation.

In this "era of negotiation" and of American "retrenchment without disengagement" it behooves the United States to deal with all States—but particularly with the sensitive developing States of the Third World, who are undergoing a much-needed redefinition of their interests on a more tangible and less romantic basis—on terms of practical mutual benefit and respect, as free as possible from ideological and nationalistic preoccupations. There are critical limits to which the United States can insist upon codifying in the universal writ of international law the protection of interests that are primarily the concern of a few great maritime States without jeopardizing both legal progress and the political accommodations on which such progress must rest.

FOOTNOTES

* Dean, the Johns Hopkins School of Advanced International Studies, Washington, D.C., and Director, Johns Hopkins Ocean Policy Project. The research on this article was made possible by a grant from the National Science Foundation.

Ocean Development and International Law Journal, Volume 2, Number 1.

[1] In this piece I have relied entirely on unclassified material. Therefore, I cannot vouch for the accuracy of the technical data that does not come from official published sources. Since it would be tedious and cumbersome, I have not cited a source for every piece of data. Aside from the great abundance of such unofficial data in the daily and the technical periodical press, I have relied on a number of special publications, such as the annual *SIPRI Yearbook of World Armaments*, publishd by the Stockholm International Peace Research Institute; *Jane's Fighting Ships 1973–74* and *Jane's Weapons Systems 1972–73;* and the annual *Military Balance*, published by the International Institute of Strategic Studies.

[2] I assume that in a general war the peacetime regimes governing the use of the oceans would be irrelevant, whereas in a war significantly limited geographically and in other respects these regimes might be observed to some extent.

[3] *See America and the World*, Vol. II: Robert E. Osgood and others, *Retreat from Empire? The First Nixon Administration* (Johns Hopkins Press: Baltimore, 1973), Chapter 1.

[4] On this question, see the somewhat opposing views of Henry Brandon and David Schoenbaum in "Jordan: the Forgotten Crisis," *Foreign Policy* (Spring, 1973), pp. 157–81.

[5] In 1973 more than one-third of American oil consumption came from abroad and about 10 per cent from the Middle East. Assuming the same rate of increase in U.S. demand, and no imposition of import restrictions, dependence on foreign oil is generally expected to increase to 50 percent of American consumption and dependence on the Middle East to 50 per cent of foreign imports in the next five to ten years, before alternative sources of oil and energy could theoretically alleviate this dependence. In 1973, however, only Kuwait and Saudi Arabia had enough foreign exchange reserves to be able to shut down production for a long period.

[6] The most intensive rivals in the Gulf are Iran and Iraq. Iran, having undertaken a substantial military buildup with American assistance, has become militarily dominant in the Gulf and shows signs of seeking to become an Indian Ocean power. Iraq is engaged in a border dispute with Kuwait. Saudi Arabia, although not aligned with either Iran or Iraq, and in the long run perhaps a natural opponent of the former, tangibly shares the interest of Iran and the sheikdoms in opposing Soviet-supported South Yemen and the radical contenders for power in Oman and elsewhere, although it now seems in no danger from radical forces. Like Iran, Saudi Arabia receives American military assistance. Pakistan has strengthened its alignment with Iran and has provided military advisors to Abu Dhabi, Kuwait, Muscat, and Oman. India, conscious of its dependence on Gulf oil and irritated by Iran's ties with Pakistan, has entered into economic and scientific cooperation with Iraq. This pattern of relations is criss-crossed by territorial disputes and dynastic rivalries among the Arab Gulf kingdoms and by rivalry between them and Iran on religious and other grounds. It is linked to the Arab-Israel dispute by Israel's close relations with Iran, as well as by Israel's material dependence on the United States.

[7] Plausible, though unlikely, scenarios for such an eventuality might include, for example, an American naval deployment and possible air action to deter Soviet intervention and support friendly regimes against Soviet-supported countries and guerillas in the event of Iranian military action against radical take-overs in the sheikdoms or Saudi Arabia, possibly accompanied by a Saudi appeal for American support against radicals who were threatening to disrupt supply of oil to the United States. American armed intervention against an anti-Israeli closure of production by Saudi Arabia seems less likely except in the context of countering Soviet intervention.

[8] See, for example, Tom Engelhardt, "The New Half-Nelson," *Far Eastern Economic Review*, April 9, 1973, pp. 25ff., and Cecil Brownlow, "Shift Forced in Military Priorities," *Aviation Week*, February 26, 1973, pp. 3–F ff.

[9] A balanced assessment of the prospect of crises and conflicts arising from Middle Eastern oil politics and affecting U.S. energy interests appears in Robert E. Hunter, *The Energy "Crisis" and U.S. Foreign Policy*, Headline Series, No. 216, June, 1973. On Soviet naval power and policy, see Geoffrey Jukes, *The Ocean in Soviet Naval Policy*, Adelphi Papers, No. 87 (International Institute for Strategic Studies, May, 1972), and Barry M. Blechman, *The Changing Soviet Navy* (Washington: Brookings Institution, 1973).

[10] The opportunities and incentives for developing countries to threaten U.S. investments, monetary interests, and access to natural resources as levers for political pressure and harassment are examined by Fred Bergsten in "The Threat from the Third World," *Foreign Policy*, (Summer, 1973), pp. 102–24.

[11] According to the 1958 Law of the Sea Convention, submarines passing through international straits "are required to navigate on the surface, and to show their flag". This would be tantamount to advance notification. The official U.S. interpretation of innocent passage (in line with the International Court of Justice's report in the 1949 Corfu Channel case that "State in time of peace have a right to send their warships through straits or seas without the previous authorization of a coastal State, provided that the passage is innocent"), does not concede that advance notice of passage through territorial waters is required. Advance notice of transit through straits, the U.S. holds, would run the risk of leading to coastal-State control of transit. In practice, the United States evidently provides advance notice of surface ships but not submarines (except, perhaps, where secret bilateral arrangements have been agreed).

[12] The chart, entitled "World Straits Affected by a 12-Mile Territorial Sea", capitalizes 16 straits as "major". Of these 16 I have substituted Kennedy-Robeson for Juan de Fuca.

[13] One of the more striking manifestations of the military establishment's tendency to leave nothing to chance, once committed to translate military interests into law, is the Defense Department's unwillingness to depend upon allied permission, as opposed to legal right, for passage through straits. But unless the U.S. Navy plans on enforcing free transit against its allies, the codification of free transit in international law would seem to add nothing to U.S. naval mobility in the improbable event that the allies were unwilling to grant submerged passage.

[14] Conceivably, the consultation clause in the Security Treaty with Japan might be interpreted to require special permission for passage of something as conspicuous as a task force—in which case the Japanese government might be reluctant to risk political opposition by granting permission. But it seems unlikely that the present Japanese government would be similarly constrained from granting occasional submerged passage, unless its growing concern over Soviet military passage impelled it to apply equal restrictions to American ships. In that case, however, it would also oppose an international free transit agreement.

[15] According to one interpretation, however, a strait in which 12-mile territorial boundaries come to two miles apart will be considered as falling within territoral waters.

[16] Significantly, the Japanese government, while agreeing with the general principle of freee transit, has been reluctant to relinquish control of Soviet military passage through the Straits of Tsushima and Tsugaru (between Hokkaido and Honshu) under the anticipated 12-mile boundary.

[17] In December, 1957, the Indonesian government declared that "all waters surrounding, between, and linking the islands belonging to the State of Indonesia . . . constitute natural parts of inland or national waters under the absolute jurisdiction of the State of Indonesia. . . . The 12 miles of territorial waters are measured from the line connecting the promontory point of the islands of the Indonesian State." Embassy of Indonesia, *Report on Indonesia* (Washington, D.C.: November–December, 1957, January, 1958), Vol. 8, number 7.

[18] Captain Edward F. Oliver, "Malacca: Dire Straits," *U.S. Naval Institute Proceedings* (June, 1973), p. 29.

[19] The U.S. government officially denies that it has any agreement with any country to provide advance notice of the passage of warships through international straits.

[20] Hydrophone arrays towed by surface ships can be almost as effective as implanted systems, but the cost is much greater. Moreover, it is unlikely that towed arrays could avoid extended territorial seas off straits any better than implanted arrays. It is technically possible to deploy implanted arrays at great distances from shore stations, but the need for amplifiers and the problem of breaks and maintenance make this option unattractive.

[21] Thus Secretary of Defense Laird stated on February 20, 1970, "according to our best estimates, we believe that our Polaris and Poseidon submaries at sea can be considered virtually invulnerable today. With a highly concentrated effort, the Soviet Navy might be able to localize and destroy at sea one or two Polaris submarines. But the massive and expensive undertaking that would be required to extend such a capability using currently known techniques would take time and would certainly be evident." He added, however, "A combination of technological developments and the decision by the Soviets to undertake a world-wide ASW effort might result in some increased degree of Polaris/Poseidon vulnerability beyond the mid-1970's. But, as a defense planner, I would

never guarantee the invulnerability of any strategic system beyond the reasonably foreseeable future, say 5–7 years." Statement before joint session of Senate Armed Services and Appropriations Committee, cited in *SIPRI Yearbook of World Armaments and Disarmament, 1970–71*, p. 122.

[28] Testimony on April 10, 1973, before the Subcommittee on International Organizations and Movements, House Committee on Foreign Affairs, 92nd Con., 2nd Sess., p. 12. Stevenson and Jared Carter, of the Dept. of Defense, substantiated the risk by citing Egypt's denial of passage to a commercial vessel in the straits leading to the Gulf of Aqaba before the June, 1967, Arab-Israeli war on the grounds that the cargo bound to Israel was not innocent. (Egypt, however, based its contention on the position that there had been a state of war since 1948.) Mr. Carter added that there were other examples of States claiming that warships do not have the right of innocent passage.

[29] In those States where the United States has its own bases or regular access to foreign bases the United States has interpreted overflight rights to be implicit in permission to use the bases. If there are no such base rights, permission for overflight is supposed to depend on diplomatic clearances received by filing one-time transit requests with the defense attaches three or four days in advance of the flights. In emergencies the U.S. practice has been to get clearance, go around, or infrequently, fly over without clearance. In practice, the distribution of American bases has obviated serious overflight restrictions. In the Middle East crisis of November, 1973, however, only Portugal granted the United States overflight, thereby greatly enhancing the need to fly over the strait of Gibraltar.

[34] See, particularly, the proceedings of 1969–70 in the Eighteen-Nation Disarmament Committee (ENDC), renamed the Conference of the Committee on Disarmament (CCD) in August 1969, which led to the 1971 *Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof*. Edward Duncan Brown draws principally from these and other U.N. documents, such as the Proceedings of the Seabed Committee, in examining the legal status of passive listening devices on the continental shelf in *Arms Control in Hydrospace: Legal Aspects* (Woodrow Wilson International Center for Scholars, Ocean Series 301, June 1971), pp. 22–35. See also *SIPRI Yearbook of World Armaments and Disarmament, 1969–70*, pp. 154–79; Captain L. E. Zeni, "Defense Needs in Accommodations Among Ocean Users," in Lewis M. Alexander, ed., *Law of the Sea: International Rules and Organization for the Sea* (University of Rhode Island: Kingston, 1969), p. 33; John A. Knauss, "The Military Role in the Ocean and its Relation to the Law of the Sea," Lewis M. Alexander, ed., *The Law of the Sea: A New Geneva Conference* (University of Rhode Island: Kingston, 1971).

[25] One can infer this from the fact that the original U.S. position on the prospective law of the sea treaty implicitly protected the legal right of the United States to emplace such devices on the continental shelf beyond the 200-meter depth. See, also, Knauss, *op. cit.*, p. 79. Article 3 of the U.S. Draft Seabed Treaty provides that the area beyond this depth "shall be open to use by all States, without discrimination, except as otherwise proved in this Convention. The only exception pertains to the exploration and exploitation of certain natural resources. In tabling the treaty, U.S. representatives, in a studied reference to military uses of the seabed, pointed out that it expressly protected the rights of States to conduct activities other than exploration and exploitation of certain natural resources in the area beyond the 200-meter isobath.

[26] The utility of ASW as a deterrent to a nuclear attack would seem to be negligible, since its contribution to the U.S. second-strike capability by protecting SSBNs is insignificant as compared to the other components of this capability. As a part of the U.S. strategic war-fighting capability ASW would play a major role, particularly in protecting convoys. But the utility of protecting convoys in any reasonably imaginable war with the USSR is highly questionable. Moreover, the efficacy of ASW against SSNs is probably declining. For a balanced and skeptical analysis of the role of naval forces in general war, see Laurence W. Martin, *The Sea in Modern Strategy* (London: Institute for Strategic Studies, 1967), chap. 2.

[27] The following straits could be included in the category of major economic significance (the straits in italics might be adversely controlled): Florida, Dover, Skagerrak, Bosporus-Dardanelles, Mozambique, *Gibraltar, Hormuz, Bab el Mandeb* (if the Suez Canal were opened), *Malacca, Lombok, Luzon*.

[28] Captain Edward F. Oliver, "Malacca: Dire Straits," *U.S. Naval Institute Proceedings* (June, 1973), pp. 27–33.

[29] Within an undefined coastal seabed economic area, the U.S. position would give coastal States complete authority to enforce both its own and international standards against pollution from seabed activities. With respect to vessels, however, the flag State would continue to have enforcement responsibility beyond the coastal State's territorial boundary, subject to the right of other States to resort to compulsory dispute settlement; and the port State could enforce pollution control standards against vessels using its ports, regardless of where violations occurred.

[30] *Washington Post*, March 23, 1973, p. A1. Iran and Oman later denied the report. Iran subsequently announced that it was preparing a bill that would extend anti-pollution controls to 50 miles from shore or the limit of the continental shelf.

[31] See the statement of John R. Stevenson to Subcommittee II of the U.N. Seabed Committee, July 28, 1972 (U.N. Doc. A/AC. 138/SC.II/SR. 37 at 2), and to the Subcommittee on International Organizations and Movements, House Committee on Foreign Affairs, "Law of the Sea and Peaceful Uses of the Seabeds," 92nd Cong., 2nd Sess., April 10 and 11, 1972, p. 12.

A GREAT LOSS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. WOLFF. Mr. Speaker, I am deeply saddened to learn of the death this past Sunday of the President of Ireland, Erskin H. Childers.

President Childers had a long and distinguished record of service to his countrymen, serving as a member of the Irish Parliament from 1938–73. During this period he held numerous posts in the Cabinet and always acted with the best interests of his people and the world in his heart. In June of 1973, he achieved one of the highest offices of his land, the Presidency.

President Childers had strong family ties to the United States. His mother, an American, is a descendent of the Adams family that gave the United States its second and sixth Presidents.

I wish to extend my condolences to his family and his countrymen on their loss.

THE GREAT ONE-SIDED UNITED STATES-U.S.S.R. JOINT SPACE PROJECT

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HUBER, Mr. Speaker, it has recently become very clear, if it was not already, that the coming joint space effort with the Soviet Union is going to be a very one-sided affair. The Soviets have rejected the request by our correspondents to view their launch. They are not permitting an equal exchange on technology. One of the reasons for this is the fact that they are so far behind in this field. In support of these two points, I would like to commend to the attention of my colleagues two items—one from the Richmond Times-Dispatch of October 12, 1974, and the other from National Review of October 25, 1974. The two items follow:

[From the Richmond Times-Dispatch, Oct. 12, 1974]

RUSSIANS REJECT UNITED STATES PLEA TO SEE 1975 SPACE SHOT

WASHINGTON.—The Soviet Union has repeatedly rejected requests that American newsmen be permitted to view the launching of Russian cosmonauts during next year's joint U.S.-Soviet space flight, but Russian newsmen will be able to view the lift-off of the American astronauts at Cape Canaveral.

National Aeronautics and Space Administration officials who recently completed negotiating press policy for the historic mission said the Russians refused to budge on the issue of opening their launching site to U.S. reporters.

"However, I don't think we should change our open policy and specifically ban Russian correspondents from the Cape even if ours can't go to Baikonur," said John P. Donnelly, the chief U.S. negotiator. Donnelly is NASA assistant administrator for public affairs.

Aside from Baikonur, Donnelly reported, the Russians have agreed to open up their space program as never before on this flight.

They will follow the open American policy of providing live voice and television throughout their segment of the mission from lift-off to splashdown. But reporters wishing to cover the flight in Russia will have to do so from a press site in Moscow.

The Associated Press has protested the action on behalf of its members.

A document on press coverage of the Appollo-Soyuz flight will be signed later this month by James C. Fletcher, NASA administrator, and officials of the Soviet Academy of Sciences.

It will not specifically state that American newsmen can't go to Baikonur, but will say that each country can accredit who it wants at its launching site.

"But the Soviets made it plain they will not accredit Americans at Baikonur," Donnelly said.

The mission is to begin with the launching

of two cosmonauts from Baikonur July 15. About seven astronauts are to lift off from the Florida cape, and the two ships are to link up in orbit the next day.

[From the National Review, Oct 25, 1974]

THE APOLLO-SOYUZ TEST PROJECT

(By Michael S. Kelly)

On May 24, 1972 former President Nixon signed an agreement with Soviet Premier Aleksei Kosygin committing the United States to the first international space venture, a linkup between American and Soviet space vehicles known as the Apollo-Soyuz Test Project (ASTP). The flight, scheduled for July 1975, was designed as the culmination of detente, a great meeting in the heavens of two old foes become friends.

On the surface, preparations for the flight still appear to be going smoothly. But the more American experts learn about Soviet space operations, the more critical they are of the ASTP. Since the ASTP was conceived in an atmosphere of great euphoria, but without much real consideration of facts, perhaps it would be wise to reevaluate it before it's too late: to analyze the importance of the goals, the success expected in meeting them, and the cost to the United States.

One of the objectives of the ASTP is to open the way for technology sharing between the United States and the Soviet Union. Experts expected such an exchange to be beneficial to both countries. However, once U.S. analysts were permitted to examine the Soyuz, Russia's most advanced spacecraft, the experts were forced to change their view. *Aviation Week & Space Technology* carried a description of the Soyuz in its issues of January 21 and 28, 1974. The articles make interesting, and amusing, reading. The first one begins by summing up the level of sophistication of the Soyuz. It is, it states flatly, "little more than a man-rated unmanned satellite." Such a statement in aerospace circles amounts to pure invective. The description is fitting, however, as evidenced by these facts:

1. The Soyuz has no inertial guidance system, only a periscope arrangement for attitude control and position reference. The periscope is useless when the spacecraft is on the night side of the planet.

2. The Soyuz has no onboard computer. The flight sequencer consists of a set of rotating drums—much like the piano roll on a player piano—on which are inscribed instructions for the automatic controls. The cosmonauts cannot input commands. They can only call up commands already on the drums.

3. Manual control is severely limited. The attitudes control system is primitive; and not adequately safeguarded against malfunction. The fuel is considered insufficient by U.S. standards.

4. The only method cosmonauts have of monitoring engine burns is to time them with a stopwatch. They must wait for word from ground control as to the success of the burn.

5. The life-support system is primitive and nonredundant. There is no backup cooling system. There is no reserve oxygen.

6. The Soviets are not particular about reentry and touchdown. They do not target for a specific point. They are satisfied if the spacecraft lands within the Soviet Union.

7. To conserve fuel, the spacecraft is stabilized by spinning it rapidly around its vertical axis. This accounts for the high incidence of motion sickness on Soviet space flights (spin stabilization is common practice for simpler, unmanned satellites, but U.S. scientists would never consider it for manned vehicles).

NO QUO FOR THE QUID

All of these factors (plus a great many more) lead American experts to conclude that the present level of Soviet space technology is about midway between American Mercury and Gemini technology; that is, about 11 years behind our current state of the art. The Soyuz can in no way compare with the Apollo spacecraft, and it is not even a serious piece of engineering compared to the Space Shuttle. Clearly we have nothing to gain in a trade of space technology, but we do have a great deal to lose.

Inertial guidance technology, structural techniques, propulsion system design, and areodynamic theory given away through the ASTP or any other detente-induced "trade" would aid the Soviet Union in developing sophisticated weapon systems. Inertial guidance technology, added to the tremendous throw weight of the Soviet missiles, could improve Soviet ICBM and SLBM forces to the point at which U.S. systems would no longer be competitive. Talk about accelerating the arms race! By pursuing this policy, we would not only encourage the development of improved weapons, we would help to design them.

One of the most common reactions to the primitive design of the Soyuz, among experts and laymen alike, is, "Our guys must be nuts to fly on that mission." Americans are not used to thinking about the safety angle of space flight any longer, with the tremendous success of the Apollo landing program, but now it must again be considered in view of the Soyuz' record.

The first cosmonaut to fly the Soyuz, Vladimir Komarov, was killed when his spacecraft plunged to earth after reentry, its parachute tangled. Three more cosmonauts died on a subsequent mission when, after the spacecraft had undocked from a Salyut space station, a hatch seal gave way and the cabin atmosphere fell overboard. The most recent Soyuz mission appeared to end prematurely, although the Soviet space agency denies this.

American experts have expressed serious concern over the safety factor. They threatened to call off the ASTP unless the Soviets revealed the cause of the accident which killed the three cosmonauts, and some of them are pressing for postponement of the flight following the apparent abort of the latest Soyuz mission. The concern for the safety of our astronauts is justified. The Soyuz' standards of engineering are not sufficient, and the record bears out the fact that the craft is vulnerable.

Another goal of the ASTP is the development of space rescue techniques. But the value of the lessons learned is questionable, for two reasons: 1) Such techniques will be developed using an Apollo spacecraft, but no Apollo spacecraft will ever fly again. 2) The value of the techniques would be questionable regardless of the fate of Apollo because of the primitive nature of the Soyuz.

OUTDATED TECHNOLOGY

Consider a situation in which a Soyuz is to rescue a stranded Apollo spacecraft. The Soyuz is defeated before it gets off the ground. Its booster is not powerful enough to place it into the nominal Apollo mission orbit. Nor is its guidance system adequate to ensure rendezvous. Booster reliability is only 80 per cent, considered poor for a man-rated system, so that achieving orbit cannot even be guaranteed. (For this reason, the Soviets will be the first to launch for the ASTP. If their first rocket does not work, they will have two more standing by.) If orbital injection is not accurate, it must be at least within certain limits, because of the Soyuz' lack of maneuverability. And if the stranded Apollo is unable to maneuver, a docking would not be possible. Because of the Soyuz' inadequate attitude control system, it cannot dock with a passive target. The target must move, in response to signals transmitted to it from the Soyuz. For this reason, the Apollo will be the active docking agent for the ASTP mission, and the Soyuz will be passive.

And if the Apollo, which is powerful, reliable, and maneuverable, should ever be called upon to rescue a Soyuz stuck in the spin-stabilized mode, rescue would be impossible. For all other types of rescue, the Apollo would be more than adequate.

This is purely academic discussion, of course, since the Apollo to be used on the ASTP will be the last such craft ever to fly. It will be succeeded by the Space Shuttle, which will make Apollo-Soyuz rescue techniques obsolete. Should the Shuttle ever be required to rescue a Soyuz, it would merely have to rendezvous with the craft, hoist it into the huge payload bay, and reenter the atmosphere. The Soyuz, on the other hand, would be pretty much useless in any attempt to rescue a disabled Shuttle.

From the foregoing discussion, it is apparent that one of the program goals, technology sharing, would be detrimental to the welfare of the United States. Another, the development of rescue techniques, is not even worthy of serious consideration. And there is substantial cause for concern over the safety of our astronaut crew for the ASTP flight. We get all this—and pay for it, too. Still another of the stated goals of the Apollo-Soyuz Test Project is the promotion of understanding and cooperation in the use of space. It is not difficult to see who will be doing all of the cooperating.

By setting a precedent with the ASTP, we may be committing ourselves to placing heavy payloads into orbit for the Russians with the Space Shuttle. The Shuttle will cost less per launch to operate than any system the Russians could devise, so that this arrangement will represent a substantial savings for them. They, in return, have nothing to offer us.

ASTP SUICIDAL

The ASTP will certainly not open the way to "understanding." Nothing has been able to do that so far, and, because of the Soviet dedication to Marxist principles, nothing ever will. It is time the American people were reminded of the fact that the Soviet Union is ruled by a government that is not "just another government." It is a tyranny, and it has, as part of its international expansionist policy, promised to extend its sphere of influence to cover us. Any technology, any aid of any kind that we give them is aid toward that goal. We, as a nation, are committing suicide wtih every wheat deal, every SALT talk, every truck plant, and every shred of knowhow we give the Russians. And the ASTP is the bannerhead of this national suicide, a proud advertisement to the world that we will spare no expense to give away to those who did not earn it, and could not duplicate it.

The ASTP might be able to promote one kind of understanding: the American people's understanding of their worth, of the decadence of the Soviet Union, and of the tragic mistake of detente. The signal that such understanding had been achieved would be that America, for the reasons stated above, withdrew from the ASTP.

LATVIANS

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. SMITH of New York. Mr. Speaker, another year has passed and Latvians are observing another anniversary of the